

democracy and calling for leaders to condemn racism, nationalism, and xenophobia, in true fascist form...bringing the US closer to the practices of fascism. All Americans need to . . .

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**From:** Progressive Caucus

**Subject:** Trump administration JAILING immigrants:

**Progressive Caucus Members Announce Bill to ABOLISH ICE!**

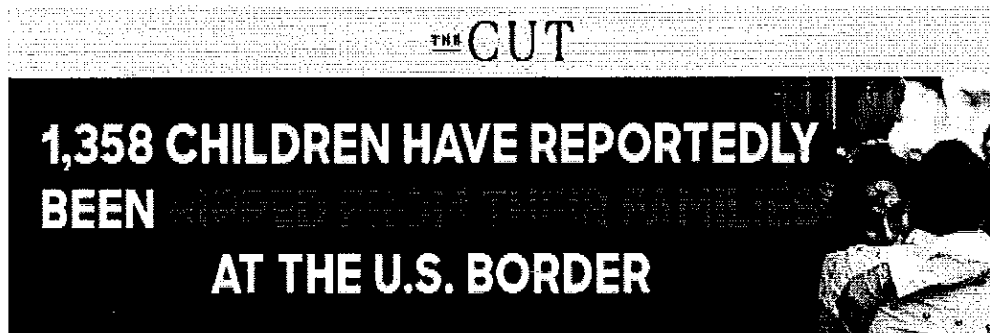
Under Trump, U.S. Immigration and Customs Enforcement (ICE) has ripped families apart, thrown children in cages, and imprisoned refugees.

*Its continued existence is a stain on our Democracy. So Progressive Caucus Co-Chair Mark Pocan just announced that he will be introducing a bill to ABOLISH it!*

**But to make his proposal a reality, we need 20,000 supporters to co-sign the bill to ABOLISH ICE:**

**STAND WITH PROGRESSIVES: ABOLISH ICE →**

*This is SICKENING:*



With Trump's backing, ICE has abused their power in order to tear apart families, harass immigrants, and throw people in prisons.

***This is monstrous. As Progressives, we have a responsibility to take action.***

That's why Congressman Mark Pocan is introducing a bill to ABOLISH ICE, and

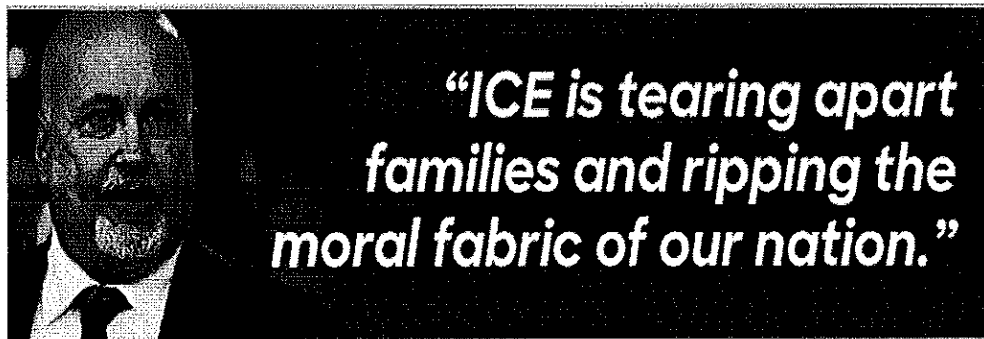
stop its abuses once and for all.

*But to pass a bill like this, we need a wave of grassroots support.*

**So sign your name to co-sign the bill to ABOLISH ICE:**

**STAND WITH PROGRESSIVES: ABOLISH ICE →**

Congressman Pocan recently visited a border detention facility run by ICE, and what he saw was HORRIFIC:



We owe it to immigrant communities throughout America to get RID of this abusive organization.

**The stakes are too high not to act.**

But in order to get Congressman Pocan's bill passed, we need 30,000 Progressives like you to stand with us.

**Sign now to co-sign the Congressional bill to ABOLISH ICE:**

**SIGN ON: ABOLISH ICE →**

---

**From:** Alert on MSNBC: Progressive Turnout Project

**Subject:** Maxine Waters DECLARED WAR against Trump on MSNBC [WE LOVE HER!]

**Maxine Waters DECLARED WAR against Donald Trump:**



*WE. LOVE. MAXINE!!*

*Thanks to her, we have a real shot at ENDING Trump= 2s Presidency.*

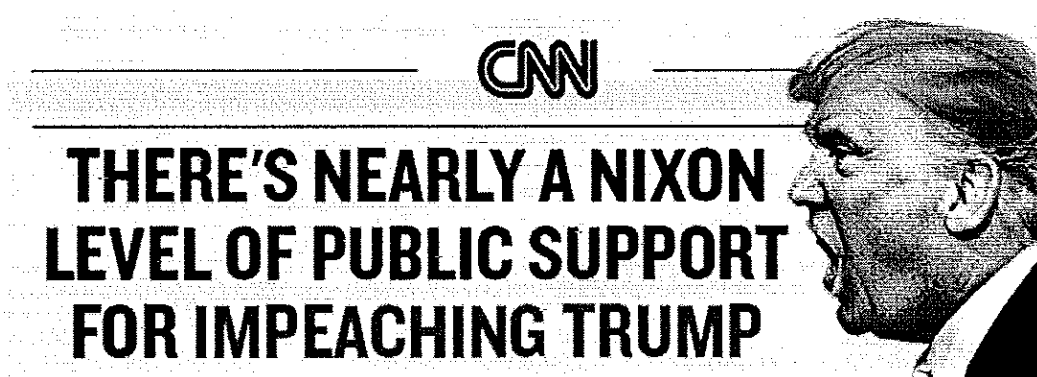
But Trump's launching NASTY attacks against Maxine, so we need 100,000 Progressives to stand with her!

**Stand with Maxine: Demand Congress to IMPEACH Trump →**

**SIGN TO IMPEACH TRUMP →**

We are SO sick of Trump covering up for his corrupt family members, defending white supremacists, and breaking the law.

*And now, more Americans than ever support impeaching Trump!*



**Munsup, we need you to stand with Progressives. Will you add your name right now?**

**SIGN TO IMPEACH TRUMP →**

Impeaching Trump won't just happen by itself. Please join us today.

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**Sent:** Monday, July 2, 2018 8:35 AM  
**To:** Rep48  
**Subject:** Ohio Media Clips, Monday, July 2



## NEWS

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**Subject:** Ohio Chamber Legislative Update July 2



**OHIO CHAMBER  
OF COMMERCE**

## Legislative Update

July 2, 2018

***Read about the issues that impact your business.***

### ***We're All For ....***

#### **Regulatory Reform**

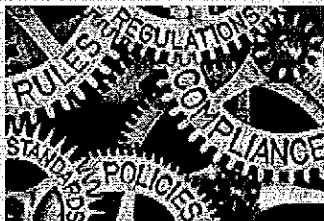
On Wednesday, the Ohio Legislature took a major step forward towards much-needed regulatory reform. Senate Bill 221, which has long been an Ohio Chamber priority bill passed through the House and the Senate and is now on its way to Governor Kasich's desk. [Continue reading.](#)

[Click here](#) to read about the bills we are following.



### **We're All for Providing Information**

Be sure to read our latest blog posts on [allforohio.com](http://allforohio.com) for additional information that is of interest to Ohio Chamber members. Here are our blog posts from the past week:



### **Pro-Business Cyber Security Legislation Heads to Governor**

In a flurry of legislative activity during the final week of June, the Legislature passed Senate Bill 220, cybersecurity legislation improving Ohio's business and legal climate. [Read about the bill.](#)

### **Senate Moves Fresh Approach to Provide Regulatory Relief**

Ever feel overwhelmed by bureaucratic red tape and government regulations? This week, the Ohio Senate passed Senate Bill 293 in an effort to provide businesses with some regulatory relief. [What does this bill mean for Ohio?](#)

### **Supreme Court Rules Fair-Share Fees Decidedly Unfair**

By now, news of the *Janus* decision has spread like wildfire across every type of media imaginable. This is big news and the blog in this post by Ohio Chamber member Vorys, Sater, Seymour and Pease LLP goes through the ins and outs of the case itself in detail. [Continue reading.](#)

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### **We're All for Connections**



### **Contact Ohio Chamber Lobbyists**

**Keith Lake, Vice President Government Affairs**  
[klake@ohiochamber.com](mailto:klake@ohiochamber.com)

**Don Boyd, = A Director Labor & Legal Affairs**  
[dboyd@ohiochamber.com](mailto:dboyd@ohiochamber.com)

**Zack Frymier, Director Energy & Environmental Policy**  
[zfrymier@ohiochamber.com](mailto:zfrymier@ohiochamber.com)

**Jeff McClain, Director Tax & Economic Policy**  
[jmcclain@ohiochamber.com](mailto:jmcclain@ohiochamber.com)

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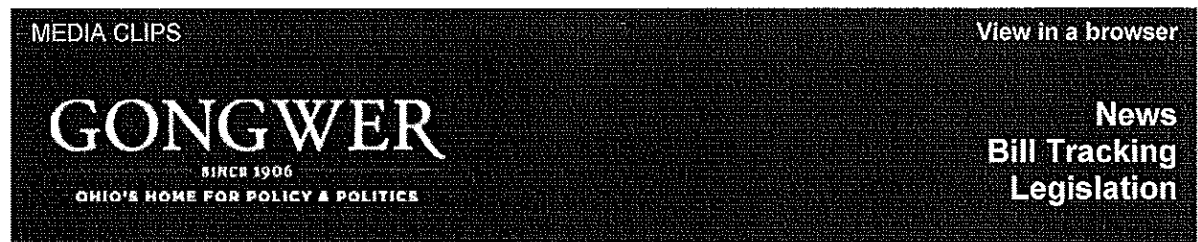
**Kevin Boehner, Director, Small Business & Workforce Policy**  
[kboehner@ohiochamber.com](mailto:kboehner@ohiochamber.com)

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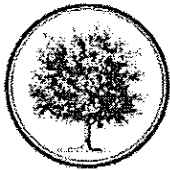
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**To:** Rep48  
**Subject:** ICYMI: Buckeye's Robert Alt Looks at the Impact of Janus in The Columbus Dispatch & The Hill



## THE BUCKEYE INSTITUTE

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Following last week's Supreme Court ruling in *Janus v. AFSCME*, Robert Alt, president and chief executive officer at The Buckeye Institute, looked at what the ruling means for Ohio's public employees and government unions in *The Columbus Dispatch* (complete piece below).

Alt also had a piece in *The Hill*, where he wrote, "Consent matters. But you don't have to take my word for it -- just ask the Supreme Court of the United States. In *Janus v. AFSCME*, the Court's five-member majority held that the First Amendment protects public-sector employees -- including petitioner Mark Janus -- from being compelled 'to subsidize private speech on matters of substantial public concern' without prior affirmative consent."

Read the full *Hill* piece [here](#).

---

# The Columbus Dispatch

**Janus decision protects workers who dissent from union**

*The Columbus Dispatch*

By Robert Alt

July 1, 2018



In *Janus v. American Federation of State, County, and Municipal Employees, Council 31*, the U.S. Supreme Court decided that public-sector workers must affirmatively consent before any money can be taken from them for union fees.

Since Wednesday's ruling, folks on both sides have unfortunately succumbed to hyperbolic overreaction. The most cursory recollection of our country's founding reminds us that the same idea of consent was integral to empowering the government in the first place. Accordingly, it should surprise precisely no one that the court was concerned with the compulsion aspect of the case's facts.

Plaintiff Mark Janus -- an ordinary child-support specialist at the Illinois Department of Healthcare and Family Services -- objected to paying mandatory union fees as a condition of his employment and lamented, "The union voice is not my voice. The union's fight is not my fight. But a piece of my paycheck every week goes to the union. I am not anti-union... But unions aren't a fit for everyone. And I shouldn't be forced to pay money to a union if I don't think it does a good job representing my interests."

The Supreme Court agreed with Janus that, indeed, consent matters. Common courtesy and basic human decency have always demanded it, but now -- in overruling its own 41-year-old precedent in *Abood v. Detroit Board of Education* -- the court found that the First Amendment requires affirmative consent when it comes to paying union fees, too.

Writing for a five-member majority, Justice Samuel Alito raised the court's objection to public employees being forced to financially support their unions, "even if they choose not to join and strongly object to the positions the union takes." Such an arrangement, Alito concluded, "violates the free speech rights of nonmembers by compelling them to subsidize private speech on matters of substantial public concern."

Unions will continue to serve their consenting members for generations to come -- only now they will do so more effectively, more efficiently and without trampling the constitutional rights of their members.

Any Ohio unions worried that *Janus* and other subsequent right-to-work laws will catalyze the end of unions and union membership can rest easy. Empirical studies and data from right-to-work states, including our neighbors Indiana and Michigan, demonstrate that even after enacting right-to-work laws, union membership not only does not suffer but often increases.

In the first full year after Indiana's right-to-work law took effect, for example, the state added 3,000 new union members. Although union membership initially fell slightly after Michigan adopted right-to-work rules in 2013, it has since recovered, accounting for 15.6 percent of all wage and salary workers in 2017 -- up from 14.4 percent in 2016 and well above the national average of 10.7 percent.

After *Janus*, the quality of public-sector union representation inevitably will improve. Removing coercion and requiring affirmative consent will incentivize union leaders to be more responsive to the needs and desires of their union members, which will increase the value of union membership by refocusing the union's attention on increasing job satisfaction and working conditions for members.

Happier and better-served union members who have affirmatively consented to their union membership should be our shared end goal across the political spectrum.

Public-sector workers won the long-overdue right to be respected, irrespective of their individual decisions regarding union membership. And, in a nation founded upon the consent of the governed, the standard of consent adopted by the Supreme Court in *Janus* finally gives our hardworking public servants the voice and choice they have always deserved.

*Robert Alt is the president and chief executive officer of The Buckeye Institute in Columbus.*

###

*Founded in 1989, The Buckeye Institute is an independent research and educational institution -- a think tank -- whose mission is to advance free-market public policy in the states.*

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**Sent:** Tuesday, July 3, 2018 12:16 PM  
**To:** Rep48  
**Subject:** United States Supreme Court Strikes Down on Public-Sector Unions



## **Landmark Labor Decision by United States Supreme Court**

By Julie T. Bittner - Partner, West De Moines, IA

In this week's landmark decision, the United States Supreme Court ruled that government workers who choose not to join a union cannot be charged for the cost of collective bargaining. Justice Samuel Alito wrote the majority opinion and the court's conservative justices joined. [View case here.](#)

In *Janus v. American Federation of State, County, and Municipal Employees, Council 31, et al.*, the Petitioner Mark Janus was an Illinois state employee whose unit is represented by a public-sector union. Mr. Janus refused to join the union because he opposed many of the union's decisions, including those taken in collective bargaining. Employees who declined to join the union were not assessed full union dues but instead were required to pay an "agency fee" which was a percentage of the union dues (here 78.06% of full union dues).

The employees were not asked and were not required to consent before the fees were deducted. In Illinois, the nonmembers were told that the agency fee covered lobbying, social and recreational activities, advertising, membership meetings and conventions and litigation, as well as other unspecified services that “may ultimately insure to the benefit of the members of the local bargaining unit.” Mr. Janus sued challenging the constitutionality of agency fees. In his case, the fees amounted to about \$535/year.

This week, the Supreme Court held that the State’s extraction of agency fees from nonconsenting public-sector employees violates the First Amendment. In its decision, the Court overturned a 41-year-old decision, *Abood v. Detroit Bd. Of Ed.*, 431 U.S. 209 (1977) and overturns laws in 22 states.

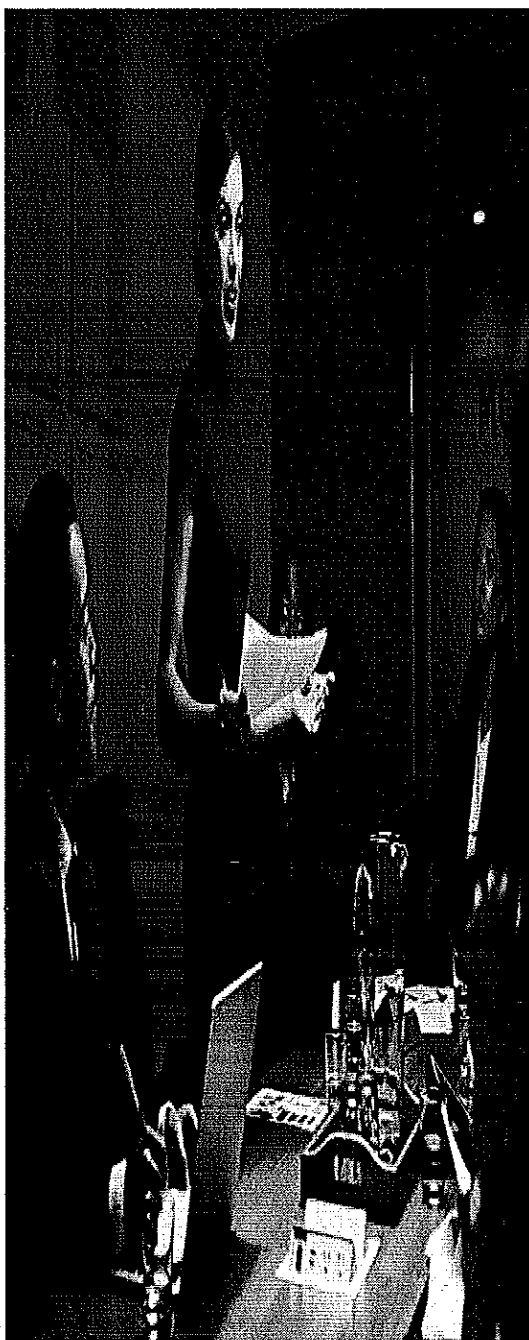
In addition to the historic argument in *Abood* regarding ‘free riders,’ Respondents argued that mandatory agency fees were necessary for unions to bargain with an adequately funded budget and to improve the efficiency of the work force. Respondents argued agency fees are needed to prevent nonmembers from enjoying the benefit of union representation without shouldering the costs (free-riding). The Supreme Court rejected each argument in turn, finding that the government’s proffered interests did not justify the heavy burden of agency fees on nonmembers’ First Amendment interests.

As a result, states and public-sector unions may no longer extract agency fees from nonconsenting employees. The Court held the First Amendment is violated when money is taken from nonconsenting employees for a public-sector union; employees must choose to support the union before anything is taken from them. Public-sector unions are still free to organize and represent their members, but cannot compel non-members to support their activities.

*This article is a publication of MWH Law Group LLP and is intended to provide general information regarding legal issues and developments to our clients and other friends. It should not be construed as legal advice or a legal opinion on any specific facts or situations. For further information on your own situation, we encourage you to contact the author of the article or any other member of the firm.*

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## Professional Development



### **Women's Issues in Legal Roles**

More women are now graduating from law school than ever before and many are facing adversity with in-house legal departments.

Here are a few professional tips to deal with challenges head-on.

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As a successful lawyer, the essential ingredient for career advancement is being able to negotiate. Choosing what negotiation style to employ can be a determinative factor in winning cases and thriving in business.

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**To:** Rep48  
**Subject:** United States Supreme Court Ruling is Perceived as a Setback for Public-Sector Unions.



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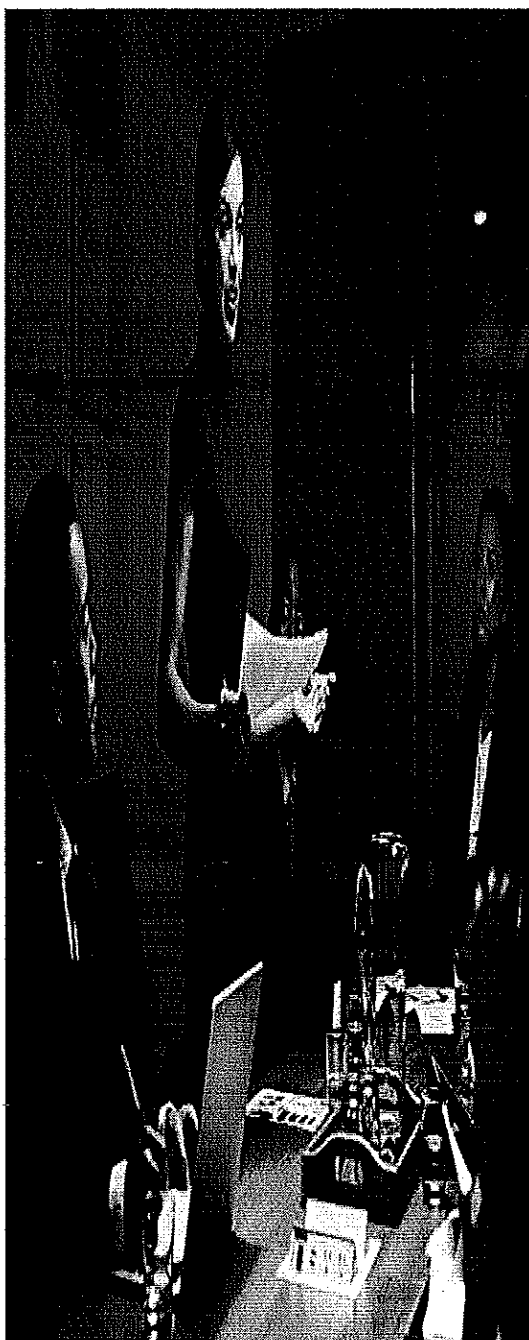
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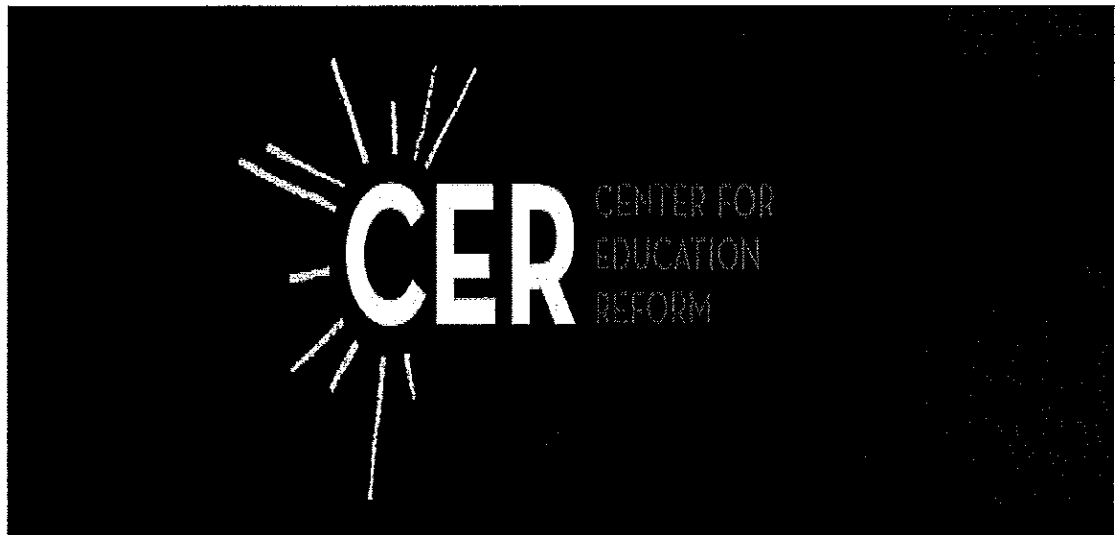
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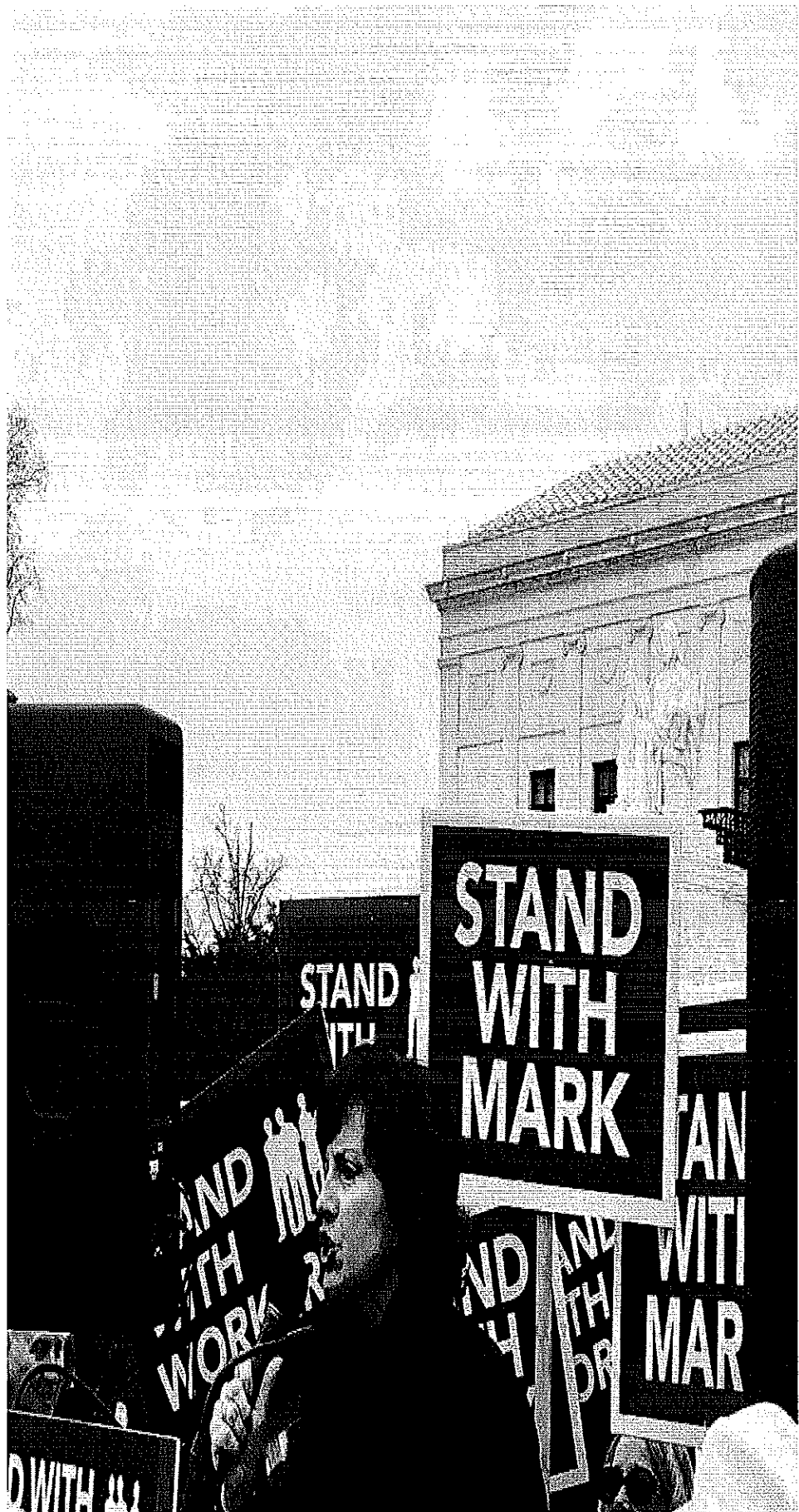
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## **ICYMI:** In Public-Sector Union-Fees Case, SCOTUS Strikes a Blow for Freedom

by Jeanne Allen | [National Review](#) | June 27, 2018



*Janus v. AFSCME* is good news for the First Amendment.

The suggestion by union leaders and various pundits that the Supreme Court's decision on *Janus v. AFSCME* will somehow deny teachers a voice — and will "defund and destroy" the unions ¶ 4 is absurd.

The case addresses an individual's constitutional protection from coerced speech. It doesn't deny unions the right to organize, recruit, bargain, strike, or collect dues from willing members. What it does deny is the unions' right to force individuals who are opposed to their positions and policies to pay into union coffers.

As much as America's teachers' unions are labor organizations, they are equally or more so political organizations, lending huge support to political causes, campaigns, and candidates. *Continue reading...*

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**To:** Rep48  
**Subject:** Why 'orphan' oil and gas wells are a growing problem for states

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## TOP NEWS July 9, 2018

### Why 'orphan' oil and gas wells are a growing problem for states

*Stateline*

Unplugged wells can leak explosive gas into neighborhoods and leach toxins into groundwater.

### At state level, GOP renews push for 'supermajority' for tax hikes

*The Washington Post*

Florida Republicans are pursuing a plan to make it harder for lawmakers to raise taxes in the state, adding new hurdles for Democrats hoping to enact bold social programs such as "Medicare for all" and more robust education spending. **NCSL research cited.**

### Insurers warn of rising premiums after Trump axes Obamacare payments again

*Reuters*



REPRODUCED



Health insurers warned that a move by the Trump administration on Saturday to temporarily suspend a program that was set to pay out \$10.4 billion to insurers for covering high-risk individuals last year could drive up premium costs and create marketplace uncertainty. [NCSL resources on health insurances premiums and increases.](#)

### **North Dakota measure would ban noncitizen voting**

*Associated Press*

Backers of a measure to change the North Dakota Constitution to explicitly bar non-U.S. citizens from voting say they have gathered enough signatures to get it on the November ballot. **NCSL research cited.**

### **Delaware lawmakers approve bill to prohibit pharmacist 'gag clauses'**

*Delaware Public Media*

Pharmacy Benefits Managers (PBMs), third-party administrators of prescription drug programs for health insurance plans, sometimes forbid pharmacists from telling customers about cheaper therapeutic alternatives, or disclosing when a drug might be cheaper when paid for out-of-pocket, rather than through insurance. = A **NCSL data cited.** [NCSL resources on 'gag clauses'.](#)

### **Janus ruling is a blow to public unions - especially bad for black women**

*Governing*

The Supreme Court's decision could weaken unions'

### **Webinar Wednesday: Revitalizing civics education in U.S. schools**

This webinar will explore the general state of civics knowledge and education in the United State and highlight some of the work state legislators are undertaking to address the civics education and engagement in their states.



### **FY 2019 state budget status**

### **Hear from thought leaders at the forefront of top issues at the Legislative Summit**

### **Connect with the new NCSL Events mobile app**



### **Dig deep into Supreme Court's term with this free webinar series**

Check out this series of webinars organized by the State and Local Legal Center and hosted by NCSL and other organizations. All of the webinars are FREE and intended for

collective bargaining power, which has historically benefited women of color more than most.

a non-attorney and attorney audiences.

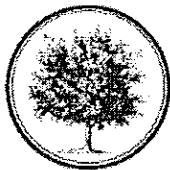


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**From:** The Buckeye Institute  
**Sent:** Tuesday, July 10, 2018 11:06 AM  
**To:** Rep48  
**Subject:** The Buckeye Institute Launches Workers Choose Campaign to Allow Public Employees to Express First Amendment Rights in Wake of Janus Ruling



## THE BUCKEYE INSTITUTE

Contact: Lisa Gates, Vice President of Comms

**FOR IMMEDIATE RELEASE**

July 10, 2018

(614) 224-3255 or [Lisa@BuckeyeInstitute.org](mailto:Lisa@BuckeyeInstitute.org)

### **The Buckeye Institute Launches Workers Choose Campaign to Allow Public Employees to Express First Amendment Rights in Wake of *Janus* Ruling**

**Columbus, OH** -- Following the U.S. Supreme Court's decision in *Janus v. AFSCME*, The Buckeye Institute launched its Workers Choose campaign, which gives public employees in Ohio the tools they need to express their newly-recognized First Amendment rights.

"In *Janus v. AFSCME*, the U.S. Supreme Court ruled that public-sector workers can no longer be forced to pay for political speech without their affirmative consent," said Robert Alt, president and chief executive officer of **The Buckeye Institute**. "For public-sector employees who seek to exercise their First Amendment rights and withdraw from their government union, **WorkersChoose.org** will allow them to initiate the process online in three easy steps. For those workers who are happy to continue supporting their government unions, they also have the First Amendment right to maintain their membership in them. The Janus decision is a win for all of our public workers, who are now respected and have a right to choose -- and those choices must be honored. I'm not sure how anyone could be opposed to letting workers decide for themselves."

To initiate the process of withdrawing from their government union, visitors to **WorkersChoose.org** will:

- Be asked to provide their name and email address;
- Find and select the county in which they work from a dropdown menu;
- Choose their employer from a dropdown menu; and
- Identify their government union in a dropdown menu.

Instructions will then appear that outline the opt-out process for that union and, when known, the specified timeframe or opt-out window. A completed notification letter, unique for each user, will be available for download and submission, as will union and employer contact information. Workers will simply need to download the letter and either email or send a hard copy to the listed contacts as instructed. If workers are required to email or send their notification letter at a future date, visitors have the option of signing up to receive an email notification when their opt-out window opens.

For public employees who have questions, there is a toll-free number, 1-855-e-Choose, and an email address, **WorkersChoose@BuckeyeInstitute.org**, that they can use for further assistance.

"If you are one of Ohio's hardworking teachers or other public-sector employees who prefer not to financially support or participate in your government union, **WorkersChoose.org** will allow you to begin the notification process today," said Alt.

###

*Founded in 1989, The Buckeye Institute is an independent research and educational institution -- a think tank -- whose mission is to advance free-market public policy in the states.*

*The Buckeye Institute is a non-partisan, non-profit, and tax-exempt organization, as defined by section 501(c)(3) of the Internal Revenue code. As such, it relies on support from individuals, corporations, and foundations that share a commitment to individual liberty, free enterprise, personal responsibility, and limited government. The Buckeye Institute does not seek or accept government funding.*



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# newswire@

A weekly report on education news and commentary you won't find anywhere else — from the nation's leading voice on education innovation and opportunity.

**A NEW HOPE FOR RELIGIOUS SCHOOLS' FREEDOM?** The President's nominee to fill the vacancy that Supreme Court Justice Anthony Kennedy will create is Brett Kavanaugh, whose long history of rulings and opinions on education issues may allow for progress and real change for religious schools and school equity: *[Does A Justice Kavanaugh Mean That Blaine Amendments Are History?](#)*

**A SETBACK IN PUERTO RICO.** A frustrating turn of events in Puerto Rico where the hopes and plans to increase educational opportunities and innovations are being held up a judge's ruling that private school scholarships

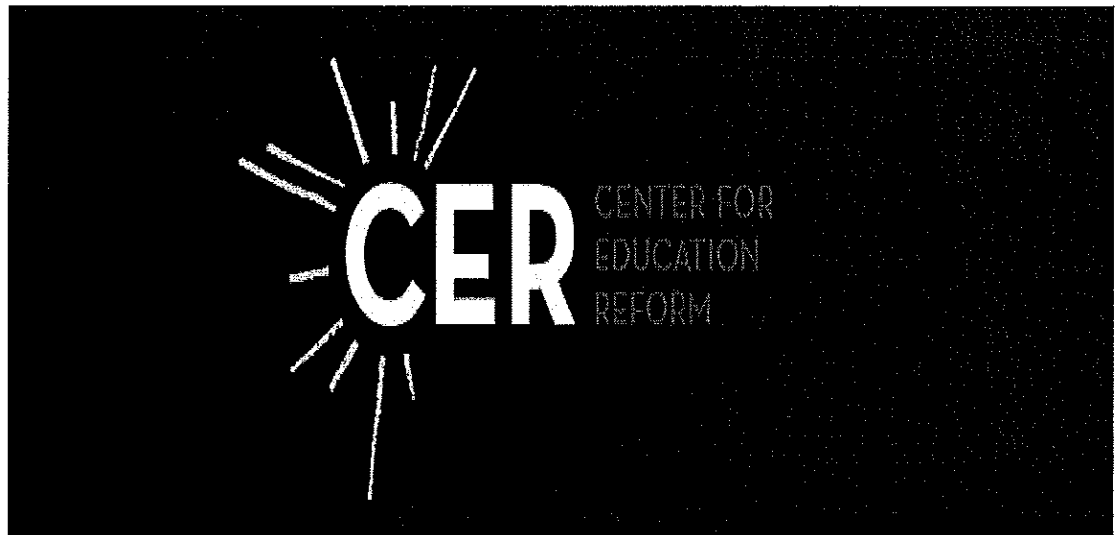
violate Puerto Rico's Constitution and that only the University of Puerto Rico and Puerto Rico's municipalities can operate "*alianza*" (i.e. charter) schools.

Sadly, this is another case of putting children last when it comes to meeting their educational needs and, with hope, will only be a temporary set-back in delivering Gov. Rosselló's hugely needed, and hugely promising reforms. The good news is that we've seen this movie before, and the flawed decisions of courts from Washington state to Florida are usually based on education powers in constitutions not legislative powers, which in most Constitutions take precedence. [Check out this review](#), for example, from former U.S. Solicitor General Paul Clement, about a similar issue claimed but not litigated in Kentucky. We'll keep you posted.



**NEA: THE "NOT EDUCATION ASSOCIATION."** Somehow the NEA thought it appropriate to dedicate nearly two-thirds of the resolutions at its annual conference last week to everything BUT education? [What are some of the NEA's priority issues?](#) Here's a sample. Ensuring that Banana Republic doesn't

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# newswire@

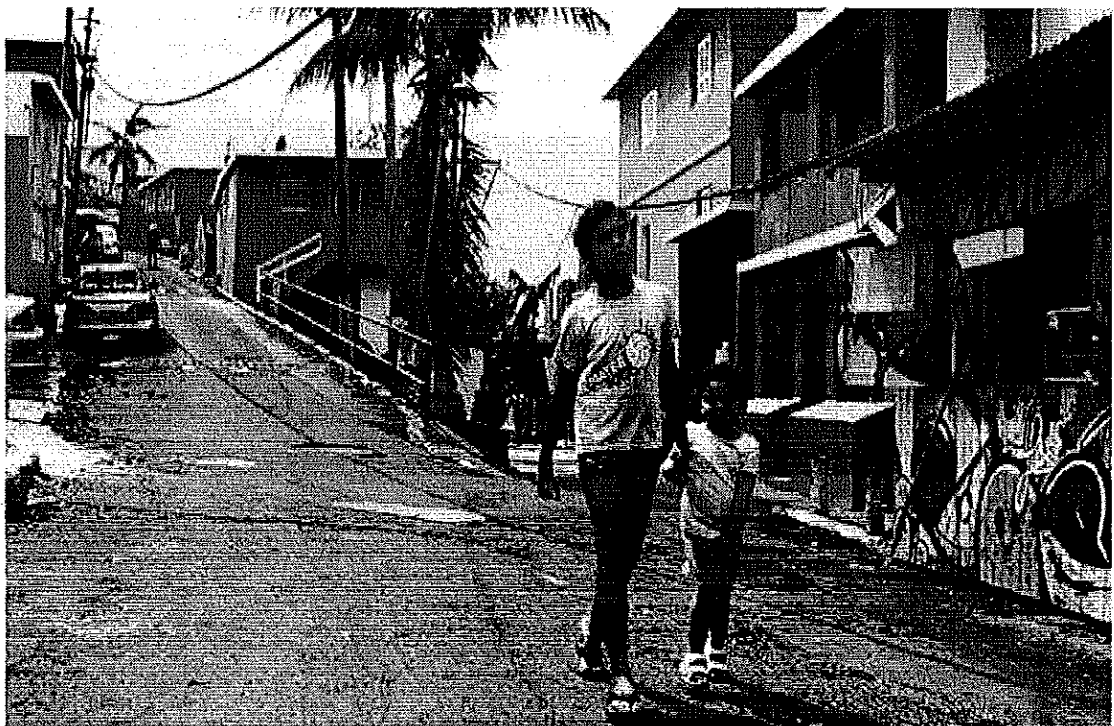
A weekly report on education news and commentary you won't find anywhere else — from the nation's leading voice on education innovation and opportunity.

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advertise with the union. Creating a toolkit to press for moratoria on charter school authorizations by bodies other than locally elected school boards. Advocating for lower interest rates and affordable housing programs for educators. And planning at least one action to shut down an immigration detention center, a Customs and order Patrol office, or an Immigration and Customs Enforcement office (and recruiting at least 500 educators to participate in the action who are willing to be arrested and not bailed out of jail for a week!).

**AFT ALSO OUT OF TOUCH.** As the AFT gears up for its rollicking annual convention and demagoguery fest we thought we'd brief you on the issues they'd be debating this year...that is until we looked at the list of a whopping 91 resolutions from 13 committees that are more appropriate to a meeting of the U.N. General Assembly than they are to addressing the educational needs of America's children and families. To be fair, they do have an "Educational Issues Committee" but things go sideways fast when we get to the committees on Healthcare, Human Rights, International Relations, Labor and the Economy, Political Action ("Resolution No. 53 'Rev It Up:' Register, Educate, Vote!") and Organizing and Collective Bargaining. Suffice it to say they will be discussing a lot of things, most of which have little or nothing to do with educating children. If you are so inclined, you can read every word of every resolution [here](#).

**NOTE TO UNIONS:** You're supposed to be looking for ways to improve your standing after Janus not get farther away from the mission upon which you were founded.

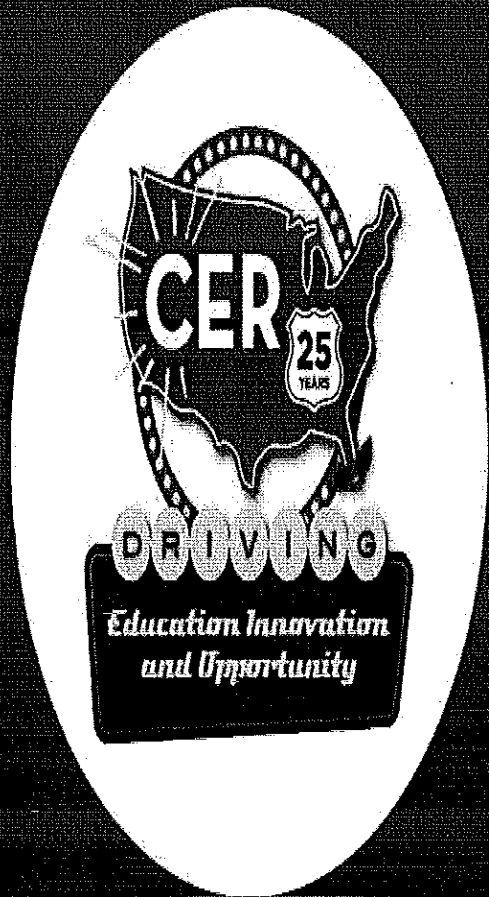
**HEARING IT DIRECTLY FROM MARK JANUS.** Along with many of our most respected colleagues, we've been glued to the Janus v. AFSCME litigation proceedings since the beginning. We've [covered](#), [interviewed](#) and reported on the subject. But nothing compares to hearing it from the horse's mouth. [Here's](#) Mark Janus explaining his "why" after the historic decision.

**TO NBC: NOT TO SAY, 'WE TOLD YOU SO' BUT...** The Grade, by Alexander Russo, offers up a great article over the irresponsibly story alleging charter schools are creating "white flight" from traditional public schools. The contention is absurd, and we said so, but the Grade goes even further. A very brief synopsis of its critique: *"...unfortunately, the [NBC/Hechinger] piece fails badly at its larger attempt, which is to assert that this kind of charter school is a significant problem nationally. Despite all efforts to make it seem otherwise, the data presented in the story do not support the claim that segregated white charters are a big problem."* Read the full article here.

**COMPETITION.** Pennsylvania's Bensalem school district hired a consultant to tell them why so many families were choosing charter schools over district schools. The consultant's explanation: with charter schools as an option for families, districts must compete for students, which means they have to improve in areas where they are lacking – be that in performance or programs or in working with parents. "Of course," the article concludes correctly, "competition is what the charter school law was supposed to produce — because competition drives excellence." = 2

**THE ROAD TO INNOVATION IS PAVED WITH SILVER...** This week we are pleased to announce the addition of Arizona State University as a partner in CER's Silver Anniversary Summit. We're grateful for the pathbreaking leadership of ASU and it's visionary president Michael Crow in their myriad endeavors. Start your engines and make your way to Miami on October 26th! Registration opens this week!

*Save the Date!*



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INNOVATION and  
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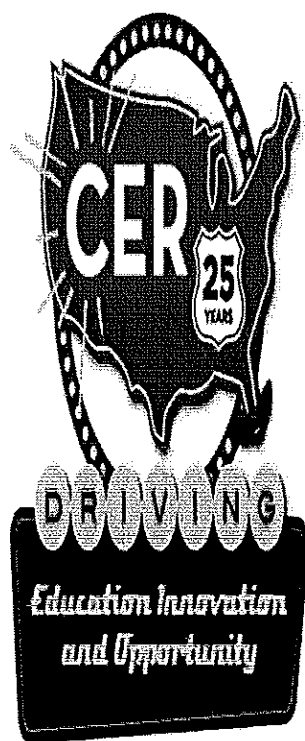
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**From:** Public Policy Law360  
**Sent:** Wednesday, July 11, 2018 5:33 AM  
**To:** Rep48  
**Subject:** 'Not A Complicated Case': Kavanaugh's Straightforward Style



Wednesday, July 11, 2018



## SUPREME COURT NOMINATION

### Feature

#### **'Not A Complicated Case': Kavanaugh's Straightforward Style**

There's no argle-bargle in Judge Brett Kavanaugh's opinions. Instead, he's made a name for himself on the D.C. Circuit with clear, concise writing. [Read more »](#)

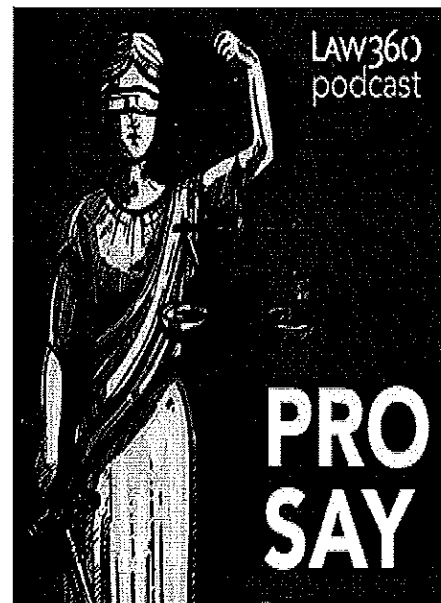
### Analysis

#### **With Kavanaugh's Nomination, Chevron's Future Looking Grim**

Confirmation of President Donald Trump's nominee to the U.S. Supreme Court, D.C. Circuit jurist and conservative all-star Brett Kavanaugh, would spell further trouble for federal agencies and so-called Chevron deference, but experts predict that the pro-regulation judicial doctrine is unlikely to be overturned completely in the near future. [Read more »](#)

#### **Dems Need Unified Front To Combat Trump's High Court Pick**

U.S. Senate Democrats have launched their drive to block President Donald Trump's choice of D.C. Circuit Judge Brett Kavanaugh for the U.S. Supreme Court, but the math indicates they must make sure their party ranks hold together. [Read more »](#)



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Feature

### **5 Tips For Kavanaugh As Confirmation Gets Underway**

D.C. Circuit Judge Brett Kavanaugh, President Donald Trump's nominee to replace retiring Justice Anthony Kennedy on the U.S. Supreme Court, has publicly shared his view that being a judge means following the law — not making it — being impartial and not acting like a jerk. Here, experts share with Law360 five tips for how he can adhere to that philosophy while navigating confirmation hearings. [Read more »](#)

Analysis

### **Kavanaugh Dissent Shows Skepticism For Deference To SEC**

U.S. Supreme Court nominee D.C. Circuit Judge Brett Kavanaugh has earned a reputation for being skeptical of “overreaching” federal agencies, a point of view that could significantly influence how the high court defers to the U.S. Securities and Exchange Commission going forward, legal experts said Tuesday. [Read more »](#)

Analysis

### **Kavanaugh Could Mean High Court Trouble For CFPB**

D.C. Circuit Judge Brett Kavanaugh would bring to the U.S. Supreme Court a skepticism of regulatory agency authority that could be a boon for the financial services industry and a bummer for the Consumer Financial Protection Bureau, experts say. [Read more »](#)

Analysis

### **What Enviro Lawyers Need To Know About Kavanaugh**

President Donald Trump's nomination of D.C. Circuit Judge Brett Kavanaugh to the U.S. Supreme Court has attorneys, industry advocacy groups, environmentalists and academics delving into his majority opinions, dissents and oral argument comments for clues to his thoughts on matters ranging from climate change to executive agency deference. Here, Law360 takes a look at four key cases

Cravath Swaine  
Curtin & Heefner  
Davis Wright Tremaine  
Dorsey & Whitney  
Duane Morris  
Dykema Gossett PLLC  
Earthjustice  
Fisher Phillips  
Gibson Dunn  
GrayRobinson  
Hogan Lovells  
Hoguet Newman  
Holland & Knight  
Jomarron Lopez  
Kasowitz Benson  
Kirkland & Ellis  
Kohn Kohn  
Lowenstein Sandler  
Milbank Tweed  
Munger Tolles  
Norton Rose Fulbright  
O'Melveny & Myers  
O'Neill & Borges  
Ogletree Deakins  
Paul Hastings  
Proskauer Rose  
Quarles & Brady  
Reed Smith  
Sanford Heisler  
Shapiro Arato  
Simpson Thacher  
Snell & Wilmer  
Starn O'Toole  
Stroock & Stroock  
Thompson Coburn  
Vinson & Elkins  
Weil Gotshal

COMPANIES

that provide insight into his approach to environmental and administrative law matters. [Read more »](#)

Feature

### **6 Kavanaugh Employment Cases Lawyers Need To See**

As U.S. Circuit Judge Brett Kavanaugh prepares to embark on a potentially contentious confirmation process, a look at his judicial record in labor and employment cases reveals a judge who often sides with employers and tends to take a tough line with federal agencies. Here, Law360 looks at a handful of Judge Kavanaugh's D.C. Circuit employment law opinions that could offer a glimpse as to what his positions on the high court may look like. [Read more »](#)

Analysis

### **Wave Of FDA Suits Awaits If Kavanaugh Helps Trim Chevron**

Numerous legal challenges to U.S. Food and Drug Administration policies are likely if D.C. Circuit Judge Brett Kavanaugh ascends to the U.S. Supreme Court and helps persuade other justices to give less deference to regulators. [Read more »](#)

Analysis

### **3 Dissents That Define Kavanaugh's Immigration Record**

U.S. Supreme Court nominee Brett Kavanaugh has written dissents over the course of his 12-year tenure as a D.C. Circuit judge asserting that unauthorized immigrants don't have labor rights, that visa applicants' cultural background is irrelevant and that a detained immigrant teen should not be given immediate access to an abortion. Here, Law360 takes a look at Judge Kavanaugh's most notable writings on immigration. [Read more »](#)

## **TOP NEWS**

### **Senate Approves 1st Trump Nominee To 9th Circ.**

AT&T Inc.

American Bankers Association

American Bar Association

American Civil Liberties Union

American Federation of Labor and Congress of Industrial Organizations

American Immigration Council

American Immigration Lawyers Association

American Petroleum Institute Inc.

Assured Guaranty Ltd.

Barclays PLC

CSP Inc.

Cable News Network Inc.

Cato Institute

Chemours Co.

Chevron Corp.

Credit Union National Association Inc.

Delaware Riverkeeper Network

Enel SpA

Fannie Mae

Fogo de Chao Inc.

Ford Motor Co.

General Motors

Globalstar, Inc.

Honeywell International Inc.

Independent Community Bankers of America

Interstate Natural Gas Association of America

JPMorgan Chase & Co.

Janus Capital Group Inc.

Kids in Need of Defense

Kroll Bond Rating Agency Inc.

McDonald's Corporation

Melaleuca Inc.

Mexican American Legal Defense and Education Fund



The Senate on Tuesday approved former Hawaii Attorney General Mark J. Bennett's nomination to a Ninth Circuit seat with a 72-27 vote, granting President Donald Trump his first confirmation to the influential court. [Read more »](#)

### **Trump Issues Post-Lucia Order Nixing Exams For ALJs**

President Donald Trump on Tuesday issued an executive order eliminating the competitive examination and selection procedures for appointing administrative law judges, citing "sound policy reasons" for making the exception in the wake of the U.S. Supreme Court's *Lucia v. SEC* ruling last month. [Read more »](#)

### **Enviro's Claim Of FERC Industry Bias Rejected By DC Circ.**

The D.C. Circuit on Tuesday rejected Delaware Riverkeeper Network's arguments that the Federal Energy Regulatory Commission improperly favors industry and that the agency's practice of issuing tolling orders that delay decisions on requests to revisit pipeline approvals was lawful, affirming a lower court's decision. [Read more »](#)

### **Calif. Judge Slashes DOJ Challenge To State Sanctuary Laws**

A California federal judge on Monday trimmed the U.S. Department of Justice's suit challenging California's "sanctuary" laws, after finding last week that the government was unlikely to prevail on most of its claims. [Read more »](#)

### **Feds Defend Spoofing Indictment Of Software Developer**

Federal prosecutors are pushing back on a software company executive's bid to dismiss an indictment accusing him of participating in a spoofing scheme, telling an Illinois federal court on Monday that the anti-spoofing statute

Nabors Industries Ltd.  
National Association of Manufacturers  
National Conference of State Legislatures  
National Consumer Law Center  
National Immigration Law Center  
Natural Resources Defense Council  
New York Times Co.  
PHH Corporation  
Pacific Legal Foundation  
People's United Financial Inc.  
Raymond James Financial Inc.  
Regents of the University of California  
Santander Consumer USA Holdings Inc.  
Space Exploration Technologies Corp.  
Tesco Corporation  
The Boeing Company  
The City University of New York  
Toyota Motor Corporation  
Twitter Inc.  
United States Council for International Business  
Volkswagen

### **GOVERNMENT AGENCIES**

Bureau of Citizenship and Immigration Services  
Commodity Futures Trading Commission  
Consumer Financial Protection Bureau  
Department of Commerce  
Equal Employment Opportunity Commission  
European Commission  
European Union

isn't unconstitutionally vague and the indictment wasn't arbitrary. [Read more »](#)

## ENERGY & ENVIRONMENTAL

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### **NY Says FERC Trying To Block Review Of GHG Analysis Order**

The New York attorney general wrote to the Federal Energy Regulatory Commission on Tuesday saying that the commission's recent order limiting its analysis of downstream greenhouse gas emissions for some gas pipeline projects was designed to shield the policy from judicial review. [Read more »](#)

## EMPLOYMENT

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### **NLRB Launches Program Aimed At Increasing Use Of ADR**

The National Labor Relations Board announced on Tuesday that it will proactively contact parties in a new outreach program to help settle more cases before the board. [Read more »](#)

### **Texas AG Warns San Antonio Paid Sick Leave Is Preempted**

Texas Attorney General Ken Paxton has fired off a warning letter to the city of San Antonio's mayor and city council, letting it know that municipalities cannot enact an ordinance mandating that employers provide employees paid sick leave because the measure is preempted by state law. [Read more »](#)

## COMPETITION

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### **FTC Says Prosthesis Co. Merger Should Be Unwound**

The Federal Trade Commission urged an administrative law judge in opening statements Tuesday to undo a leading prosthetics manufacturer's purchase of its smaller but highly competitive rival in the market for microprocessor-driven knees, a deal that allegedly threatens the "intense" competition

Executive Office of the President  
Federal Communications Commission  
Federal Deposit Insurance Corp.  
Federal Energy Regulatory Commission  
Federal Reserve System  
Federal Trade Commission  
Financial Crimes Enforcement Network  
Food and Drug Administration  
National Communications System  
National Highway Traffic Safety Administration  
National Labor Relations Board  
National Telecommunications and Information Administration  
Navajo Nation  
New York State Senate  
Occupational Safety and Health Administration  
Office of the U.S. Trade Representative  
Securities and Exchange Commission  
U.S. Attorney's Office  
U.S. Census Bureau  
U.S. Customs and Border Protection  
U.S. Department of Homeland Security  
U.S. Department of Justice  
U.S. Department of Labor  
U.S. Department of Transportation  
U.S. Department of the Interior  
U.S. Environmental Protection Agency  
U.S. House of Representatives  
U.S. Immigration and Customs Enforcement  
U.S. Senate

between the companies that pushed prices downward. [Read more »](#)

### **EU Tells Spain To Recoup €167M In State Aid From Postal Co.**

The European Commission ordered Spain on Tuesday to recover €167 million (\$196 million) in illegal state aid to Correos, the country's postal service, after determining the government-owned company had been overcompensated between 2004 and 2010 and benefited from "incompatible" tax exemptions. [Read more »](#)

## **INTERNATIONAL TRADE**

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### **Trump Preparing To Hit China With \$200B In Added Tariffs**

The Trump administration on Tuesday ratcheted up the trade war between the U.S. and China, releasing a wide-ranging \$200 billion list of Chinese goods the government said it wants to hit with tariffs, from frozen fish to plastic pipes. [Read more »](#)

### **Switzerland Fires Rare WTO Salvo Against US Metal Tariffs**

The Trump administration's contentious duties on steel and aluminum prompted a rare World Trade Organization challenge from Switzerland on Tuesday, marking just the fifth time the Central European country has filed a case in the 23-year history of the WTO. [Read more »](#)

## **BANKRUPTCY**

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### **Puerto Rico Fights Special Revenue Bond Insurer Appeal**

Puerto Rico and its federally appointed financial restructuring advisers urged the First Circuit on Monday to affirm a decision that has freed the commonwealth from an obligation to pay special revenue bondholders while it winds its way through bankruptcy-like proceedings,

U.S. Supreme Court  
World Trade Organization

saying a reversal would "undermine critical infrastructure." [Read more »](#)

## IMMIGRATION

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### **USCIS Closes Vt. EB-5 Investor Center Over Ski Resort Fraud**

Vermont said Tuesday it has received a termination notice from U.S. Citizenship and Immigration Services, saying it is shutting down the Vermont Regional Center for immigrant investors after an alleged scheme to defraud EB-5 visa holders who invested millions of dollars in the state's Jay Peak ski resort. [Read more »](#)

### **US Slaps Visa Sanctions On Laos, Myanmar**

The U.S. Department of Homeland Security hit Laos and Myanmar with visa sanctions after the Trump administration determined that the two Asian nations have failed to cooperate sufficiently on taking back nationals the U.S. seeks to deport, the agency said Tuesday. [Read more »](#)

### **ICE, CBP Hit With Suit Over Immigrant Arrest Records**

The American Immigration Council asked a D.C. federal court Monday to force U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement to hand over their immigration enforcement records, claiming the agencies illegally failed to respond to the nonprofit's Freedom of Information Act request. [Read more »](#)

### **Travel Ban Ruling Doesn't Apply To DACA, 9th Circ. Told**

The Ninth Circuit shouldn't view the U.S. Supreme Court's decision to side with the Trump administration in the travel ban case as a cue for greenlighting the executive branch's rescission of the Deferred Action for Childhood Arrivals program, attorneys representing the University of California, a California county and

several immigrants told the court Monday.  
[Read more »](#)

## NATIVE AMERICAN

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### **Navajo Nation Wants Radiation Compensation Law Expanded**

The Navajo Nation is pressing the U.S. Congress to update a federal law that provides compensation for people who contracted cancer and other serious diseases after being exposed to radiation during Cold War-era nuclear weapons testing, saying that the statute needs to be expanded. [Read more »](#)

### **Suit Challenging Census Citizenship Question Amended**

A federal lawsuit challenging the Trump administration's decision to include a citizenship question on the 2020 census has been updated to include claims that Native Americans would also be harmed by the inclusion of the query. [Read more »](#)

## TELECOMMUNICATIONS

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### **Feature**

### **Top 3 Groups Lobbying The FCC**

During June, telecom lobbyists pressed harder on hot-button issues at the Federal Communications Commission including phone accessibility and model small-cell agreements. Here's a look at the top three groups lobbying the FCC from June 1 to June 30 and a sampling of what they care about. [Read more »](#)

### **'Regulatory Humility' Will Spur New Technologies, Pai Says**

Federal Communications Commission Chairman Ajit Pai on Tuesday touted a philosophy of "regulatory humility" undergirding his leadership of the agency, telling a symposium in Switzerland that deferral to market mechanisms is the best way for

governments to foster the growth of new technologies. [Read more »](#)

### **NTIA Requests FCC Rulemaking On Emergency Network Use**

The National Telecommunications and Information Administration, the president's adviser on domestic and international telecommunications policy, asked the Federal Communications Commission on Monday to make rule changes that would allow government entities to have priority access to wireless operators' networks in times of emergency. [Read more »](#)

### **SpaceX, Others Back FCC Satellite Rule, But With Tweaks**

SpaceX and other space launch and satellite companies weighed in positively on the FCC's proposed rule to streamline licensing requirements for small satellites in comments made public Tuesday, although commenters also urged the commission to make several tweaks before finalizing the proposal. [Read more »](#)

### **MADD Urges FCC To Keep Car Safety Tech Alive**

Advocacy group Mothers Against Drunk Driving is urging the Federal Communications Commission to work with automakers to deploy a safety technology that would allow cars to communicate wirelessly with each other and infrastructure components to reduce accidents. [Read more »](#)

## **WHITE COLLAR**

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### **Jury Hears Of 'Skelos Family Shakedown' As Trial Nears End**

The Manhattan U.S. Attorney's Office made the case to jurors Tuesday that former New York State Senate Majority Leader Dean Skelos and his son Adam used the Long Island Republican's powerful office to extort real estate, environmental and insurance

companies, calling it "the Skelos family shakedown." [Read more »](#)

## EXPERT ANALYSIS

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### Series

#### **High Crimes And Misdemeanors: 'Manifest Injury' Is Key**

Under the U.S. Constitution, impeachment requires no charging of crime, no intent to do wrong and no lawbreaking. Rather, impeachment focuses on significance of effect. President Bill Clinton's 1998 impeachment was a clear demonstration of the differences between criminal and impeachment prosecution, says attorney Barbara Radnofsky. [Read more »](#)

#### **New Bill Addresses Systemic Risk In Cannabis Banking**

The newly introduced STATES Act would alleviate most of the issues that financial institutions face in providing services to marijuana-related businesses, say attorneys with Dykema Gossett PLLC. [Read more »](#)

### Opinion

#### **The Problem With SEC's Plan To Cap Whistleblower Awards**

The U.S. Securities and Exchange Commission's proposal to reduce payments to whistleblowers in the largest anti-fraud cases completely ignores the central purpose of the Dodd-Frank Act's whistleblower provisions, says Stephen Kohn of Kohn Kohn & Colapinto LLP. [Read more »](#)

### Opinion

#### **Law Schools Must Take A Stand Against Mandatory Arbitration**

Later this week, Harvard Law students will begin bidding on interview slots with the nation's top law firms. Our institutions owe it to their students not only to require firms to disclose mandatory arbitration provisions in new associate contracts, but also to bar employers from on-campus recruiting if they

require these provisions, says Isabel Finley, a third-year student at Harvard Law School and president of the Harvard Women's Law Association. [Read more »](#)

## LEGAL INDUSTRY

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### **Global 20: Norton Rose Fulbright**

Norton Rose Fulbright continues to handle cross-border matters in several industry sectors, from guiding Tesco in its \$220 million energy combination with Nabors to successfully defending a banking executive in the JPMorgan "London Whale" case, winning the firm a place for the sixth consecutive year on Law360's Global 20 list. [Read more »](#)

### **Kasowitz Among Those Exceeding Cravath On Associate Pay**

More than a month after Milbank Tweed Hadley & McCloy LLP sparked the start of the 2018 associate pay raises, more law firms continue to bump up salaries, with Kasowitz Benson Torres LLP on Tuesday announcing big raises that exceed the Cravath scale. [Read more »](#)

### **Ogletree Says Amending Gender Bias Complaint Is 'Futile'**

Ogletree Deakins Nash Smoak & Stewart PC urged a California federal judge Monday to reject a former firm attorney's request to amend her gender bias suit against the labor law powerhouse, arguing that bringing more individuals into the suit would be futile since her dispute is subject to an arbitration agreement. [Read more »](#)

### **Kirkland Booted From For-Profit Law School's ABA Suit**

An Arizona federal judge overseeing a suit by a for-profit law school against the American Bar Association has removed from the case three Kirkland & Ellis attorneys representing the school, including former U.S. Solicitor General Paul D. Clement, saying they have not



complied with out-of-state attorney admission procedures. [Read more »](#)

### **Holland & Knight Adds Ex-Reed Smith Team For Philly Launch**

Holland & Knight LLP announced Tuesday it has hired a dozen former Reed Smith LLP attorneys, including a longtime managing partner in Philadelphia, to help launch a new office in the City of Brotherly Love. [Read more »](#)

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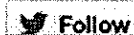
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**From:** Public Policy Law360  
**Sent:** Thursday, July 12, 2018 4:40 AM  
**To:** Rep48  
**Subject:** Kennedy's Legacy Remains Alive In Kavanaugh's Nomination



Thursday, July 12, 2018



## SUPREME COURT NOMINATION

### Feature

#### **Kennedy's Legacy Remains Alive In Kavanaugh's Nomination**

Over his four decades on the federal bench, there was one clerk U.S. Supreme Court Justice Anthony Kennedy always praised effusively. Now, that clerk could be replacing the retiring justice on the high court. Read more »

### Feature

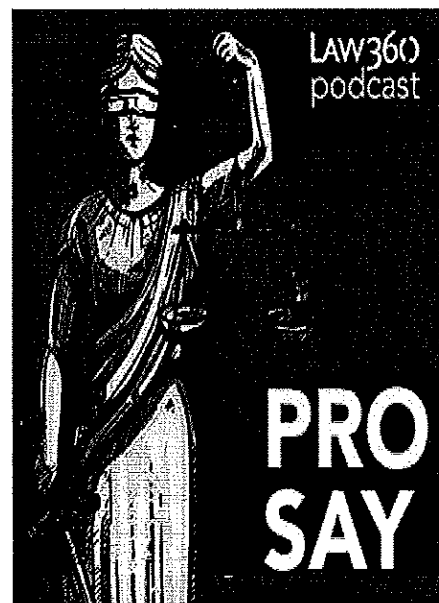
#### **4 Kavanaugh Arguments You Gotta Hear**

President Donald Trump's nomination of D.C. Circuit Judge Brett Kavanaugh to a seat on the U.S. Supreme Court has sent everyone scrambling to read what the jurist has written, but how about what he's said? Here, Law360 presents an interactive audio tour of four key Judge Kavanaugh arguments. Read more »

### Feature

#### **What Civil Rights Rulings Could Look Like Under Kavanaugh**

U.S. Supreme Court nominee Brett Kavanaugh's record on immigration, employee rights and health care suggests he could side more closely with high court conservatives than civil rights advocates would like, paving



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Benesch Friedlander  
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Duval & Stachenfeld  
Epstein Becker Green  
Faegre Baker

the way for closely watched rulings on some of the nation's most controversial issues. Read more »

### **Senate Panel Gearing Up For Kavanaugh Vetting Fight**

The Senate Judiciary Committee has already begun what will be a lot of heavy lifting to get ready for a confirmation hearing on U.S. Supreme Court nominee Brett Kavanaugh, which could come before September, by staffing up and preparing to review hundreds of thousands of documents. Read more »

### **Kavanaugh Splurged On Baseball Tix, Reports Say**

D.C. Circuit Judge Brett Kavanaugh racked up steep credit card debt in 2016 to pay for Washington Nationals tickets, according to Wednesday news reports and disclosures by the U.S. Supreme Court nominee that also show he coaches kids' basketball and contributed to a law book without pay. Read more »

#### **Analysis**

### **Kavanaugh's Transportation Rulings Favor Limited Deference**

In the various transportation industry challenges he's considered over the years, D.C. Circuit Judge Brett Kavanaugh has made clear his distaste for granting broad deference to federal agencies, making clear he expects regulators to carefully justify their decision- and rule-making processes. Read more »

#### **TOP NEWS**

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### **Senate Confirms Kirkland Atty As DOJ Criminal Division Head**

The U.S. Senate voted on Wednesday 51-48 to confirm Brian Benczkowski's nomination as head of the Department of Justice's criminal division, despite Democratic senators' concerns about his work at Kirkland & Ellis LLP

Gibson Dunn  
Greenberg Traurig  
Gupta Wessler  
Herbert Smith Freehills  
Hogan Lovells  
Hoguet Newman  
Holland & Knight  
King & Spalding  
Kirkland & Ellis  
Latham & Watkins  
LeClairRyan  
Milbank Tweed  
Morrison & Foerster  
O'Melveny & Myers  
Paul Hastings  
Quarles & Brady  
Reed Smith  
Saul Ewing  
Shapiro Arato  
Sidley Austin  
Snell & Wilmer  
Stinson Leonard  
Sullivan & Worcester  
Vinson & Elkins  
Yetter Coleman

#### **COMPANIES**

Allergan PLC  
Alliance of Automobile Manufacturers  
American Bar Association  
American Center for Law and Justice  
American Civil Liberties Union  
American Enterprise Institute  
American Federation of Government Employees  
American Federation of State, County and Municipal Employees  
Association of Corporate Counsel

for a Russian bank and lack of experience in public criminal cases. [Read more »](#)

### **9th Circ. Pick Treads Fine Line On Environmental Stance**

Ryan D. Nelson, the third person nominated by President Donald Trump for a Ninth Circuit seat, acknowledged humans played a role in climate change but said during testimony at a Senate Judiciary Committee hearing Wednesday that he believed courts must adhere to the letter of the law when interpreting often old or ambiguous environmental statutes. [Read more »](#)

#### **Analysis**

### **Pipelines Come Out On Top With Nixing Of FERC Bias Claim**

The D.C. Circuit endorsed the status quo at the Federal Energy Regulatory Commission when it rejected arguments the agency's process favored industry groups at the expense of the environment, a decision that experts say preserves obstacles for groups that challenge pipeline projects. [Read more »](#)

### **New EPA Chief Signals Change In Tone But Not Substance**

The new, acting head of the U.S. Environmental Protection Agency on Wednesday extended an olive branch to staffers and journalists — many of whom tangled with Scott Pruitt, the scandal-plagued former leader of the EPA — and indicated he will continue to carry out the Trump administration's deregulatory agenda. [Read more »](#)

### **IRS Finalizes Anti-Inversion Regs That Sank \$160B Pfizer Deal**

The Internal Revenue Service implemented regulations Wednesday that a federal court had invalidated last October after they sank a planned \$160 billion merger between Pfizer Inc. and Allergan PLC of Ireland. [Read more »](#)

## **BANKING & SECURITIES**

Baltimore Orioles  
Bank of America Corporation  
Bayer AG  
Bristol-Myers Squibb Co.  
Center for Biological Diversity Inc.  
Delaware Riverkeeper Network  
Environmental Defense Fund Inc.  
Epic Systems Corp.  
Federalist Society  
Federation for American Immigration Reform  
Global Automakers  
Google Inc.  
Greater Boston Chamber of Commerce  
International Brotherhood of Teamsters  
Internet Brands, Inc.  
Kirkland's, Inc.  
Lambda Legal Defense & Educational Fund  
LegalZoom.com Inc.  
Los Angeles Dodgers  
Macquarie Group Ltd.  
Melaleuca Inc.  
Murray Energy Corp.  
NBCUniversal Inc.  
National Conference of State Legislatures  
National Education Association  
National Federation of Independent Business  
National Parks Conservation Association  
National Right to Work Legal Defense Foundation  
Natural Resources Defense Council  
New York City Bar Association  
New York University

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## **House Passes Bill To Allow Venture Exchanges**

The U.S. House of Representatives on Tuesday passed two bills aimed at improving capital formation for smaller companies, one of which would allow for the creation of venture exchanges and another that aims to improve research coverage for lesser-known companies. [Read more »](#)

## **ENERGY & ENVIRONMENTAL**

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### **EPA Says Challenge To Fuel Economy Rollback Too Early**

The U.S. Environmental Protection Agency on Tuesday urged the D.C. Circuit to toss a challenge to its decision to revisit greenhouse gas emissions standards established by the Obama administration for 2022-2025 model cars and light trucks, arguing that the suits were premature. [Read more »](#)

### **House Passes Fisheries Act Update Opposed By Enviro**

The U.S. House of Representatives on Wednesday voted to renew a decades-old law designed to protect and replenish the nation's fish stocks, along with several amendments that Democrats and environmentalists said would weaken the statute. [Read more »](#)

### **Enviros Press EPA On Heavy-Duty Truck Emissions Standards**

A trio of environmental groups pushed the U.S. Environmental Protection Agency on Tuesday to revoke its recent decision to cease enforcing Obama-era greenhouse gas emissions standards for certain heavy-duty trucks outfitted with engines from older trucks, standards the agency plans to repeal. [Read more »](#)

## **HEALTH & LIFE SCIENCES**

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Northern Mariana Islands Retirement Fund  
Nuclear Energy Institute  
Owner-Operator Independent Drivers Association Inc.  
PHH Corporation  
Pfizer Inc.  
Service Employees International Union  
Sierra Club  
Southern Environmental Law Center  
The Royal Bank of Scotland Group PLC  
Tix Corporation  
Twitter Inc.  
U.S. Chamber of Commerce  
United Food & Commercial Workers Int'l Union  
University of Mississippi Medical Center  
Verizon Communications Inc.  
Washington Nationals  
Washington Post Co.  
Wayfair LLC  
Xcel Energy Inc  
ZTE Corp.

## **GOVERNMENT AGENCIES**

Bureau of Citizenship and Immigration Services  
Bureau of Indian Affairs  
Bureau of Industry and Security  
Bureau of Land Management  
Consumer Financial Protection Bureau  
Department of Commerce  
Drug Enforcement Administration  
Equal Employment Opportunity Commission  
European Commission

## **DEA Finalizes Prescription Opioid Anti-Diversion Policy**

The U.S. Drug Enforcement Administration finalized plans Wednesday to scrutinize diversion of prescription opioids for illicit uses when setting limits on opioid production, shooting down industry objections about potential shortages and methods of assessing diversion. [Read more »](#)

## **EMPLOYMENT**

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### **Paid Family Leave Cheered But Proposals Diverge At Hearing**

Republicans and Democrats cheered the idea of creating a paid family leave program in the U.S., the only industrialized country that does not guarantee new mothers paid time off, but disagreed on how to do it during a Senate Finance Committee meeting on Wednesday. [Read more »](#)

## **CONSUMER PROTECTION**

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### **Trump Retools Fraud Task Force To Focus On Consumers**

The Trump administration disbanded an Obama-era financial fraud task force on Wednesday, replacing it with another multiagency group led by the U.S. Department of Justice that targets a broader range of economic crimes — especially fraud on consumers and the government. [Read more »](#)

## **INTERNATIONAL TRADE**

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### **WTO China Review Turns Ugly As More US Tariffs Loom**

A World Trade Organization review of China's trade regime gave way to a contentious scrap in Geneva on Wednesday as the Asian giant swapped blows with the United States over the Trump administration's decision a day earlier to target \$200 billion worth of Chinese exports with additional duties. [Read more »](#)

European Union  
Federal Aviation Administration  
Federal Communications Commission  
Federal Energy Regulatory Commission  
Federal Motor Carrier Safety Administration  
Federal Trade Commission  
Interior Board of Indian Appeals  
Internal Revenue Service  
Massachusetts Department of Revenue  
Massachusetts Supreme Judicial Court  
National Highway Traffic Safety Administration  
National Labor Relations Board  
Navajo Nation  
New Jersey Legislature  
New York State Department of Financial Services  
New York State Senate  
Office of National Drug Control Policy  
Office of the U.S. Trade Representative  
Securities and Exchange Commission  
Surface Transportation Board  
U.S. Attorney's Office  
U.S. Department of Health and Human Services  
U.S. Department of Homeland Security  
U.S. Department of Justice  
U.S. Department of Transportation  
U.S. Department of the Interior  
U.S. Environmental Protection Agency

## **ZTE Takes Step Toward Lifting US Export Restrictions**

ZTE Corp. has inked a deal with the U.S. Department of Commerce that has it depositing \$400 million in an escrow account to lift a denial order that's blocking its access to the U.S. supply chain, the government said Wednesday. [Read more »](#)

## **Senate Pushes Back Against Trump's Security-Based Tariffs**

The U.S. Senate took a preliminary step to counter the Trump administration's use of a Cold War-era law to impose sweeping tariffs Wednesday, fueling a long-running legislative push to reinstate congressional authority over trade policy. [Read more »](#)

## **Nonprofit Can't Access EU Investment Arbitration Docs**

A European Union court on Wednesday shut down an effort by an environmental law nonprofit to force the European Commission to release documents relating to the compatibility of investment arbitration and the investment court system with EU law, agreeing with the commission that doing so could weaken its negotiating position. [Read more »](#)

## **TAX**

### **NH Council OKs Special Session To Counter Wayfair Ruling**

New Hampshire lawmakers can attempt to make life difficult for other states seeking to impose sales and use tax on remote transactions from in-state businesses, after the governor's request for a special legislative session to combat the U.S. Supreme Court's Wayfair ruling was approved Wednesday. [Read more »](#)

## **BANKRUPTCY**

### **PREPA Chief Resigns Amid Restructuring, Privatization Push**

U.S. House Committee on Energy and Commerce

U.S. House of Representatives

U.S. Immigration and Customs Enforcement

U.S. Senate

U.S. Supreme Court

World Trade Organization

The head of Puerto Rico's public electric utility has resigned just months after being installed to lead the company's privatization push as it struggles to restructure more than \$9 billion in debt and improve an unstable electric grid. [Read more »](#)

## IMMIGRATION

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### **Immigrant Kids On Track For Family Reunification, US Says**

More than half of the children recently separated from a parent at the border who have been identified as covered under a class action, and who are eligible to be promptly reunited, were expected to be back with a guardian by a court-imposed deadline, the Trump administration told a California federal court Tuesday. [Read more »](#)

### **Bill Roundup: Improper Entry, TPS, Family Reunification**

House lawmakers introduced several bills Tuesday that would increase the minimum prison sentence for improper entry to the U.S., extend temporary protected status designation for certain countries and require the reunification of immigrant families. Here, Law360 delves into their proposals. [Read more »](#)

## NATIVE AMERICAN

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### **House Panel Pushes Forward Little Shell Recognition Bill**

The House Committee on Natural Resources on Wednesday easily passed a proposed bill that would give the Little Shell Tribe of Chippewa Indians of Montana federal recognition and a land base. [Read more »](#)

### **Feds Defer Gas Leasing Of Colo. Land To Consult With Tribe**

The federal government has decided to defer the leasing of almost a dozen parcels of land for possible oil and gas development in



Huerfano County, Colorado, in order to consult with the Navajo Nation first, a U.S. Bureau of Land Management representative said Wednesday. [Read more »](#)

## TELECOMMUNICATIONS

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### **FCC Needs More Info Before Gutting Kids' TV, Sens. Warn**

Sens. Ed Markey and Richard Blumenthal warned Wednesday that the Federal Communications Commission is taking a step toward rolling back rules governing children's educational TV programming without adequately sussing the impact of such a change on young minds and low-income households. [Read more »](#)

### **Dems Say Proposed FCC Rule A Disservice To Consumers**

Two leading House Democrats on Tuesday urged Federal Communications Commission Chairman Ajit Pai to reconsider a proposed revision to the agency's rules they say would make it more difficult for consumers to get help with complaints against communications companies. [Read more »](#)

### **FCC Must Probe Carriers' Sharing Of User Data, Panel Hears**

The Federal Communications Commission must further probe the sharing of sensitive customer information collected by telecom providers and passed on to third parties without clear procedures for obtaining the users' consent, a House subcommittee on technology heard Wednesday. [Read more »](#)

### **FCC Announces \$100M Telehealth Pilot Program**

The Federal Communications Commission announced Wednesday it plans to launch a telehealth program aimed at improving health outcomes in rural areas and backed by \$100

million in funding from the Universal Service Fund. [Read more »](#)

## WHITE COLLAR

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### **Ex-NY Senate Head Denies Extortion In Final Plea To Jury**

An attorney for former New York State Senate Majority Leader Dean Skelos on Wednesday made his final pitch to jurors in the corruption retrial accusing the Long Island Republican and his son of leveraging political power to extort companies, saying there's no crime in the senator asking for assistance for his son. [Read more »](#)

## EXPERT ANALYSIS

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Series

### **High Crimes And Misdemeanors: Making Political Judgments**

Presidential impeachment exists not so that one party can decapitate the other, but to preserve the foundation of our democracy. For an impeachment to be legitimate, it must be a fair process in which Congress speaks for a majority of the American people in undoing an election, say Laurence Tribe of Harvard Law School and Joshua Matz of Gupta Wessler PLLC. [Read more »](#)

### **The Rise And Fall Of The Millionaire Tax In Massachusetts**

In a June 20, 2018, decision the Massachusetts Supreme Judicial Court ended a three-year effort to amend the Massachusetts Constitution and impose an additional tax on individuals with income exceeding \$1 million, David Nagle and Joseph Donovan of Sullivan & Worcester LLP analyze the history of the litigation, the decision and its implications. [Read more »](#)

### **All Unions Likely To Feel The Impact Of Janus V. AFSCME**

While the high court's decision in *Janus v. AFSCME* issued a direct and devastating hit to public-sector unions, its effects are likely to be far reaching. Unions representing both private- and public-sector employees, as well as union funding of political causes, will feel the blow, say Joseph Gross and Adam Primm of Benesch Friedlander Coplan & Aronoff. [Read more »](#)

### **#MeToo's Impact On Sexual Harassment Law Just Beginning**

The myriad sexual harassment laws proposed and passed this year show that legislatures are swiftly responding to the #MeToo movement. All employers should keep abreast of developments nationwide, because another state's laws may be coming soon to a legislature near you, says Susan Sholinsky of Epstein Becker & Green PC. [Read more »](#)

## **LEGAL INDUSTRY**

### **Global 20: Herbert Smith Freehills**

Herbert Smith Freehills used its global reach to help clients connected to the investigation into Russia's interference in the 2016 presidential election and to defend RBS in a high-profile action brought by thousands of investors over its £12 billion rights issue, landing the firm on Law360's Global 20 list. [Read more »](#)

### **Female GCs Earn 78 Cents For Every Dollar Male GCs Collect**

The median total pay for female general counsel is \$210,000, compared with the \$270,000 median total compensation that men earn at the same level, according to a report released Wednesday. [Read more »](#)

### **Ways In-House Counsel Can Foster A Positive Co. Culture**

Part of the role of in-house counsel amid the #MeToo movement is to effect change at their organizations and proactively try to create an environment in which employees are more

sensitive, panelists at a New York City Bar Association event said Tuesday. They shared three other tips for how business lawyers can build a culture of respect. [Read more »](#)

### **NY Boutique Duval & Stachenfeld Hikes Associate Pay**

Announcements of associate salary bumps continued apace as Manhattan-based real estate boutique Duval & Stachenfeld LLP informed its staff on Tuesday that it will increase base salaries, effective from the beginning of July, to adhere to the new market scale, at least for younger attorneys. [Read more »](#)

#### **Analysis**

### **Avvo's End Spells Opportunity For Other 'Disrupter' Legal Cos.**

Avvo Legal Services may have succumbed to regulators troubled by a business model offering a menu of legal work for fixed fees, but that might only add wind to the sails of other legal industry "disrupters" focused on low-cost services. [Read more »](#)

### **Kirkland Gets OK To Rejoin Law School Suit Against ABA**

A day after being shown the door in an Arizona federal court case challenging the American Bar Association law school accreditation process, a Kirkland & Ellis LLP team was welcomed back on Tuesday. [Read more »](#)

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**From:** Public Policy Law360  
**Sent:** Friday, July 13, 2018 11:46 AM  
**To:** Rep48  
**Subject:** Kavanaugh's Writing, Argument Style & More: Everything You Need To Know About The Nominee

## LAW360 Special Report

A LexisNexis® Company

Friday, July 13, 2018



### IN HIS WORDS



#### 5 Kavanaugh Opinions You Need To Read Right Now

President Donald Trump called Judge Brett Kavanaugh a "judge's judge" when he named him Monday as his pick to succeed retiring U.S. Supreme Court Justice Anthony Kennedy. As all eyes turn to the Senate for what is expected to be a bruising confirmation process, here are the opinions.

#### 'Not A Complicated Case': Kavanaugh's Straightforward Style

There's no argle-bargle in Judge Brett Kavanaugh's opinions. Instead, he's made a name for himself on the D.C. Circuit with clear, concise writing.

#### 4 Kavanaugh Arguments You Gotta Hear

President Donald Trump's nomination of D.C. Circuit Judge Brett Kavanaugh to a seat on the U.S. Supreme Court has sent everyone scrambling to read what

### COMPANIES

AT&T Inc.  
American Federation of Labor and Congress of Industrial Organizations  
Boehringer Ingelheim  
Cable News Network Inc.  
Cato Institute  
Chevron Corp.  
Fannie Mae  
Federalist Society  
Hobby Lobby Stores  
Janus Capital Group Inc.  
McDonald's Corporation  
National Consumer Law Center  
Oil States International Inc.  
PHH Corporation  
SAS Institute  
Santander Consumer USA Holdings Inc.  
The City University of New York  
Twitter Inc.  
Verizon Communications Inc.

### GOVERNMENT AGENCIES

the jurist has written, but how about what he's said? Here, Law360 presents an interactive audio tour of four key Judge Kavanaugh arguments.

## HOW HE COULD CHANGE THE COURT

### With Kavanaugh's Nomination, Chevron's Future Looking Grim

Confirmation of President Donald Trump's nominee to the U.S. Supreme Court, D.C. Circuit jurist and conservative all-star Brett Kavanaugh, would spell further trouble for federal agencies and so-called Chevron deference, but experts predict that the pro-regulation judicial doctrine is unlikely to be overturned completely in the near future.

### Kavanaugh's Views Could Mean Increased Scrutiny Of USPTO

D.C. Circuit Judge Brett Kavanaugh has a fairly sparse record on intellectual property issues, but the U.S. Supreme Court nominee's skepticism of the power of administrative agencies could lead him to closely scrutinize decisions by the U.S. Patent and Trademark Office, attorneys say.

### 6 Kavanaugh Employment Cases Lawyers Need To See

As D.C. Circuit Judge Brett Kavanaugh prepares to embark on a potentially contentious confirmation process, a look at his judicial record in labor and employment cases reveals a judge who often sides with employers and tends to take a tough line with federal agencies. Here, Law360 looks at a handful of Judge Kavanaugh's employment law opinions that could offer a glimpse as to what his positions on the high court may look like.

### Kavanaugh Dissent Shows Skepticism For Deference To SEC

U.S. Supreme Court nominee D.C. Circuit Judge Brett Kavanaugh has earned a reputation for being skeptical of "overreaching" federal agencies, a point of view that could significantly influence how the high court defers to the U.S. Securities and Exchange Commission going forward, legal experts said Tuesday.

### Kavanaugh Could Mean High Court Trouble For CFPB

D.C. Circuit Judge Brett Kavanaugh would bring to the U.S. Supreme Court a skepticism of regulatory agency authority that could be a boon for the financial services industry and a bummer for the Consumer Financial Protection Bureau, experts say.

Consumer Financial Protection Bureau

Copyright Royalty Board

Equal Employment Opportunity Commission

Federal Communications Commission

Federal Reserve System

Federal Trade Commission

National Labor Relations Board

Occupational Safety and Health Administration

Securities and Exchange Commission

U.S. Copyright Office

U.S. Department of Labor

U.S. Department of the Interior

U.S. Environmental Protection Agency

U.S. Patent and Trademark Office

U.S. Senate

U.S. Supreme Court

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**From:** Max Behlke  
**Sent:** Monday, October 2, 2017 6:01 PM  
**To:** Rep48  
**Subject:** NCS Capitol to Capitol: Congress Shifts to Tax Reform



## Capitol to Capitol

NATIONAL CONFERENCE of STATE LEGISLATURES



Oct. 2, 2017

### Congress Shifts to Tax Reform

On Sept. 27, Trump and the "Big Six"—7 which includes Senate Majority Leader Mitch McConnell (R-Ky.), Speaker Paul Ryan (R-Wis.), Senate Finance Chairman Orrin Hatch (R-Utah), House Ways and Means Chairman Kevin Brady (R-Texas), Treasury Secretary Steven Mnuchin and National Economic Council Director Gary Cohn

--- released their "unified framework" for overhauling the U.S. tax code. The nine-page document will serve as a starting point for tax writers in both the House and the Senate to hash out the rest of the details.

But before it fleshes out the details of tax reform, Congress will need to pass a budget resolution that includes tax reform instructions so that it can then use budget reconciliation for tax reform. Budget reconciliation is a legislative maneuver that allows the majority in the Senate to bypass the filibuster process, allowing them to pass legislation with 51 votes, instead of the normal 60. The House is expected to vote on its FY 2018 budget on Thursday. In the Senate, the full Budget Committee is expected to mark up its budget plan, which is quite different than the House bill, later this week.

Concerning tax reform, the Senate budget would allow tax writers to add as much as \$1.5 trillion to the deficit over 10 years, but the House budget would not allow a tax plan to add to the deficit. This is just one of several differences that the two chambers will have to reconcile before moving forward on a tax package. Budget aside, the White House is optimistic for a tax plan to move quickly through Congress. "We would hope to be in the Senate in November," Cohn told reporters last week. "And we would hope to have a bill done by this year."

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Meanwhile, the administration and GOP leaders will need to package this plan and sell it to the public as tax relief for the middle class and not a windfall for the wealthiest Americans if they want the reform to make it across the finish line. They will also need to secure the necessary votes in the Senate, which is anything but assured given that the slim Republican majority can ill-afford to lose votes of support.

In sum, enacting a tax plan this year might be overly optimistic given the tight congressional calendar and lack of agreement on key policy details. While Republicans are desperate for a win and a legislative victory, tax reform is by no means an easy feat and the process may continue well into 2018.

NCSL Contacts: Max Behlke; Jake Lestock

### **NCSL Urges Preservation of the SALT Deduction**

On Sept. 27, NCSL released the following statement regarding the tax reform framework:

*As a central tenet of tax reform is to provide tax relief for the middle class, NCSL is dismayed that the released framework will eliminate a deduction that is vital to middle class taxpayers, the State and Local Tax (SALT) deduction. The SALT deduction has existed in the federal tax code since its inception, which coincidentally was also when the federal tax code was at its simplest, because federal tax writers were cognizant to not tax an individual's income twice.*

*Eliminating this deduction will lead to higher tax burdens for tens of millions of middle class taxpayers of every political affiliation, an outcome contrary to the stated goal of providing meaningful relief to taxpayers. The elimination of the SALT deduction also impedes the ability of states to invest in infrastructure, fund education, and provide the vital public services that Americans expect from their state and local governments.*

*Ensuring that the incomes of American workers are not taxed twice hardly counts as a special interest tax break or loophole that needs to be closed. NCSL strongly supports preservation of the SALT deduction and opposes any attempt to harm middle class taxpayers and their communities.*

*Protect state taxpayers. Protect local decision making. Protect SALT.*

NCSL Contacts: Max Behlke; Jake Lestock

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**DYK?** The Coinage Act of 1792 established the U.S. Mint, created the dollar as the nation's standard unit of money, and regulated the country's coinage. Specifically, the law specified that \$10, \$5 and \$2.50 coins (known as eagles, half-eagles and quarter-eagles) were to be made of their face value in gold, while the dollar, half-dollar, quarter-dollar, dime and half-dime coins were to be made of their value in silver. Criminals found that they could make a profit by filing shavings from the sides of gold and silver coins, and selling it. It did not take long for the U.S. Mint to begin adding ridges to the coins' edges, a process called "reeding," to make it impossible to shave them down without the result being obvious. As a side benefit, the reeded edges make counterfeiting more difficult.

## **SCOTUS Gerrymandering Case Could Reshape American Politics**

"There is only one prediction that is entirely safe about the upcoming term, and that is it will be momentous."

- Justice Ruth Bader Ginsburg, Sept. 20, 2017

Today, the Supreme Court of the United States (SCOTUS) returns for what could be one of the most consequential terms of the court in recent memory. In addition to cases on immigration, religious freedom, and privacy already on the docket, it will hear oral arguments in a case about partisan gerrymandering in Wisconsin, where a federal court in November 2016 struck down a legislative map for being too partisan. In *Gill v. Whitford*, a panel of three federal judges ruled that the Wisconsin State Assembly map adopted in 2011 violated the First and 14th Amendments to the Constitution. If the court ultimately rules against the plaintiffs, it could mean that no amount of partisan bias could make electoral districts unconstitutional. But on the flipside, if the court sides with the plaintiffs, it could ultimately lead to drastic changes of electoral maps and how state legislatures draw them.

**DYK? On this day in...**

- **1996:** President Bill Clinton signed the Electronic Freedom of Information Act Amendments (E-FOIA), which required executive branch agencies to make certain types of records, created on or after Nov. 1, 1996, to be made available electronically. The amendments also required agencies to provide electronic reading rooms for citizens to use and extended the response time to FOIA requests from 10 days to 20 business days.
- **1980:** Pennsylvania Congressman Michael Myers became the first member of either chamber of Congress to be expelled since the Civil War, for his involvement in the Abscam scandal. As part of the public corruption investigation, Myers was videotaped accepting a \$50,000 bribe from undercover FBI Agents.
- **1967:** Thurgood Marshall was sworn in as the first African-American justice of the Supreme Court of the United States.

## **Senate Releases Bipartisan Autonomous Vehicle Legislation That Pre-empts States**

On Sep. 28, Senate Commerce Committee Chairman John Thune (R-S.D.), and Senators Gary Peters (D-Mich.), Roy Blunt (R-Mo.), and Debbie Stabenow (D-Mich.) unveiled legislation regarding autonomous vehicles—the American Vision for Safer Transportation Through Advancement of Revolutionary Technologies (AV START) Act. The AV START Act is similar to the House passed SELF DRIVE but it also contains several significant differences as well as areas of concerns for states, notably in the areas of pre-emption and safety evaluation reports. The Commerce Committee will consider the legislation at a markup schedule for Oct. 4.

### **Pre-emption**

The Senate committee bill currently includes a pre-emption section identical to that included in the bill passed by the House. Specifically, the language would pre-empt states from regulating the performance of automated driving systems (ADS) as well as any "unreasonable restrictions" concerning registration, licensing, driving education and training, insurance, law enforcement, crash investigations, safety and emissions inspections, congestion management of vehicles on the street within a state or political subdivision of a state, or traffic on the design, construction, or performance of highly automated vehicles or ADS. **NCSL Urges State Legislators to Contact their Congressional Delegations to Voice their Opposition to the Pre-Emption.**

Additionally, the bill would prohibit a state from issuing licenses for a dedicated highly automated vehicle (DHAV), which the bill defines as a level 4 or 5 automated vehicle, in a way that discriminates against those with disabilities.

A full NCSL analysis of the AV START legislation can be read [here](#).

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*NCSL Contacts:* Ben Husch; Kristen Hildreth

## **A Deeper Dive on Transportation, Energy, Environment and Agriculture Policy**

For those looking for a deep dive on federal Transportation, Energy, Environment and Agriculture topics, please check out the September editions of our Natural Resources and Infrastructure Committee's three monthly newsletters:

- Energy & Agriculture Update - latest federal developments influencing agriculture and energy policy
- Environment Update - latest federal developments on environment policy
- Transportation Update - latest federal developments on transportation policy

*NCSL Contacts:* Ben Husch; Kristen Hildreth

**DYK?** Russia did not consider beer, or any beverage that contained less than 10 percent alcohol, to be alcoholic until 2011. They previously classified it as a soft drink. The new restrictions were signed off by then President Dmitry Medvedev as part of an attempt to counter alcohol abuse, which he earlier called a "national calamity."

## **Supreme Court Will Hear Far-Reaching Union Case**

The Supreme Court of the United States agreed on Thursday to hear *Janus v. AFSCME*, a case challenging the legality of union fees that could have serious ramifications for public sector unions. The case revolves around Illinois state employee Mark Janus, who contends the requirement that he pay union fees to the American Federation of State, County, and Municipal Employees (AFSCME) violates his free speech rights. The justices considered this issue once before, when the Court took up *Friedrichs v. California Teachers Association* last year. That case was brought by a California teacher, Rebecca Friedrichs, and resulted in a 4-4 deadlock following the death of Justice Antonin Scalia. Should the justices vote the same way, Neil Gorsuch will be in a position to offer the final tie-breaking vote.

NCSL Contacts: Joan Wodiska, Lucia Bragg

## **Trump Signs Hurricane Relief Legislation for Schools, Issues Hurricane Relief Guidance**

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The president signed S. 1866 into law on Friday after the bill passed through Congress last week. The bill offers various forms of support for schools and colleges impacted by the recent hurricanes. Specifically, the law:

- Allows the U.S. Department of Education to waive a requirement that higher education institutions contribute matching funds as part of the Federal Work Study and Supplemental Educational Opportunity Grant programs.
- Redistributes the unused funds in those programs to colleges affected by the hurricanes.
- Provides access for private schools to funds available under the Project School Emergency Response to Violence program.

The law comes on the heels of new non-regulatory hurricane relief guidance, issued by the department on Sept. 22. The guidance identifies areas of federal law that are subject to flexibility and waivers for grantees and program participants impacted by natural disasters. The guidance focuses on support and flexibility options available to schools, state educational agencies, state lead agencies, local educational agencies, local early intervention service programs and providers, State Vocational Rehabilitation agencies, the Department of the Interior's Bureau of Indian Education (BIE)-funded schools, Tribes, and postsecondary institutions with a focus on the 2017 hurricanes. The department will hold a webinar discussing the details of the guidance on Thursday, Oct. 5 at 2 p.m. ET. Interested participants may register [here](#).

NCSL Contacts: Joan Wodiska, Lucia Bragg

## **HHS Secretary Pays Price for Travel**

On Friday, Health and Human Services Secretary Tom Price resigned for his use of private charter and military jets to travel around the country at taxpayer expense. Don Wright, a longtime U. S. Health and Human Services (HHS) career employee, doctor and public health expert was named acting HHS secretary Friday following Price's resignation. Soon after Price stepped down, Washington began speculating about possible candidates for his replacement, including:

- Scott Gottlieb, the commissioner of the Food and Drug Administration
- Seema Verma, the administrator of the Centers for Medicare and Medicaid Services
- David Shulkin, the secretary of veterans affairs
- Former Louisiana Governor Bobby Jindal
- Florida Governor Rick Scott

NCSL Contact: Haley Nicholson

## **Also of Note...**

Federal Funding for the Children's Health Insurance Program (CHIP), which covers 9 million children, expired on Sept. 30. If Congress does not act, the Kaiser Family Foundation expects 10 states to run out of money for the program by the end of the year, and 21 states will be out of money by March 2018.

NCSL Contact: Haley Nicholson

The National Flood Insurance Program, a federal program that aims to provide affordable flood insurance to property owners, has depleted its borrowing authority after a series of devastating hurricanes over the past several weeks. The Federal Emergency Management Agency (FEMA), which runs the program, notified Congress on Sept. 20 that it borrowed \$5.8 billion from the Treasury to fund losses this year, including those incurred by Hurricanes Harvey and Irma, and "anticipated programmatic activities." The balance of FEMA's remaining borrowing authority is now zero, according to the agency.

NCSL Contact: Ethan Wilson

Read the Sept. 25, 2017, Capitol-to-Capitol.

If you have comments or suggestions, please contact [Max Behlke](#).

[Read More](#)

*Capitol to Capitol is a publication of the National Conference of State Legislatures. NCSL is recognized as a formidable lobbying force in Washington, D.C. NCSL works to protect states from unfunded federal mandates and unwarranted federal pre-emption of state authority, and seeks to provide state legislatures the flexibility they need to innovate and be responsive to the unique needs of their residents. NCSL's advocacy is guided by the [policy directives and resolutions](#) adopted during NCSL's Legislative Summit.*



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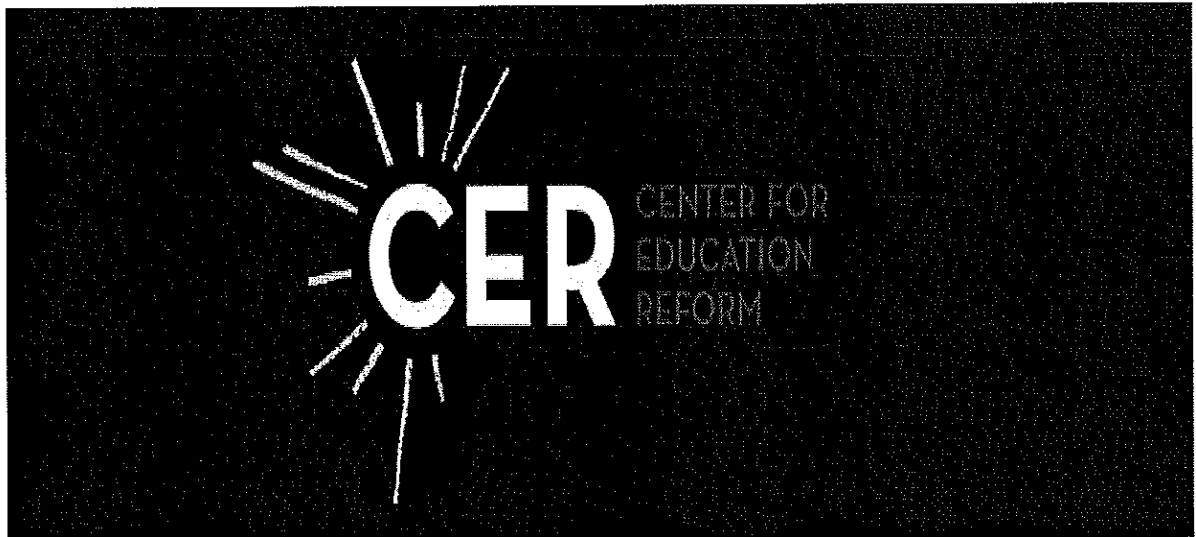
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October 4, 2017

## **Memo to Reporters**

From: Jeanne Allen, founder & CEO, the Center for Education Reform

### **Re: U.S. Supreme Court case holds promise for teacher freedoms**

Leaders of organizations and schools across the education reform arena are enthusiastic that on Thursday, September 28, the Supreme Court of the United States (SCOTUS) agreed to hear arguments in *Janus v. AFSCME*. The case was brought forth by Mark Janus, an Illinois Department of Healthcare and Family Services public employee who believes that forced unionism and the mandatory paying of fees violates his First Amendment rights. A favorable outcome in *Janus* could pave the way for a loosening on the stranglehold of other public sector employees compelled to pay mandatory union fees. Public school teachers, in particular, stand to benefit from the freedom that would allow them to make their own decisions as to whether or not they pay union dues and fees.

## TOP 5 TAKEAWAYS IF SCOTUS RULES IN FAVOR OF *JANUS*:

- Free millions of workers – public school teachers included ? 3 from compelled association—a clear violation of the First Amendment
- Millions of workers will no longer be compelled to pay union fees when opting out of union representation
- In addition to more take-home pay, teachers will have more freedom to innovate when opting out of mandated association with teachers' unions
- A pro-Janus ruling will have no impact on the ability for unions to organize and function
- The union-employee relationship should improve as unions will demonstrate their value to existing and future members

The case has been winding its way through Federal courts since early 2015 and was stayed pending an outcome in *Friedrichs v. California Teachers Association*, a case that was deadlocked 4-4 after the tragic passing of Justice Antonin Scalia. While the *Janus* case was initially dismissed by U.S. District Court after that *Friedrichs* ruling, the employees, backed by the National Right to Work Foundation, appealed to the 7th U.S. Circuit Court of Appeals in October 2016 which, as expected, upheld the lower court's decision – paving the way for an appeal to the U.S. Supreme Court. On June 6, 2017, a petition for Writ of Certiorari was filed and later accepted by SCOTUS. Now the 40-year old ruling in *Abood v. Detroit Board of Education* which created the current system allowing mandatory fees paid to public unions could very well be overturned.

It's important to note that the case started with an executive order issued by Illinois Governor Bruce Rauner, who sought to abolish mandatory collective bargaining pending review of its constitutionality. Since 2012, six states have passed laws strengthening workers' rights and freedom from having to pay

mandatory union fees. What is most notable is at least three of these states are “blue-to-purple” states with historic ties to organized labor, including Michigan, Wisconsin and West Virginia. Following these laws, teachers’ union membership dropped 20% in Michigan and 58% in Wisconsin. More state policymakers throughout the country are focused on the upcoming *Janus* case review. With teachers’ union-driven pension rules and union-backed laws that protect uniform pay scales, eschew performance pay and mandate teacher tenure, the elimination of mandatory fees could impact the unions’ ability to wage political battles to defend their turf and oppose proposals that put student achievement and parental choice at the center of every education improvement effort.

CER believes that the *Janus* case holds great potential for employees and could dramatically improve union-employee relationships. Overturning *Abood* will allow for teachers to associate as they see fit, providing teachers more freedom and independence to better serve their students. This will not bar union organizing but ensure unions prove their value to each member. Unions should celebrate the opportunity to prove their value to employees rather than relying on mandatory fees.

Instead, it is evident by the recent teachers’ union attacks on education reform that the unions fear the freedom *Janus* may bring to teachers, particularly as their funds are declining. Randi Weingarten, president of the American Federation of Teachers, the nation’s second-largest teachers’ union, has also scoffed at the idea that teachers are entitled to the same First Amendment rights as other employees.

Historically, public support for mandatory agency fees is low, and most Americans are unaware that teachers are pressured to join unions and forced to pay union fees even when they decline to join. A June 2017 survey by Education Next found that teachers oppose mandatory fees 47% to 44%, while the general public is 44% to 37% opposed.

As the public’s attention turns to *Janus v. AFSCME*, it is important to note that this case is bigger than one public employee or one union — this case could improve

the learning experience for students by dramatically empowering teachers nationwide, and change the course of American education.

Members of the media interested in writing about this in any aspect, CER's team can provide insights and commentary, and connect reporters with parents, teachers and those on the ground who will be most affected by the outcome of the case.

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**MEDIA CONTACT: Tim Sullivan, *Chief Communications Officer***  
**[tim@edreform.com](mailto:tim@edreform.com) | (443) 532-2445**

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Founded in 1993, the Center for Education Reform aims to expand educational opportunities that lead to improved economic outcomes for all Americans — particularly our youth — ensuring that conditions are ripe for innovation, freedom and flexibility throughout U.S. education.

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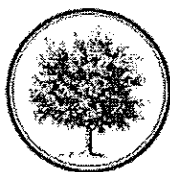
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In between the numerous "Giving Tuesday" emails you have likely received today, we hope you will take a minute to read Robert Alt's compelling piece in *Forbes*.

In the article, Robert argues that we need to change our laws in order to empower public-sector workers with the voting rights they deserve.

Who among us believes it is fair that these workers are being denied the right to vote and the ability to have a voice or a choice on which union represents them? Not your Buckeye Institute. We stand solidly in favor of **Worker Voting Rights** and believe workers deserve a voice and a choice in their representation.

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Buckeye President & CEO Robert Alt has been featured on more than 70 radio shows across the country in the past few months talking about Buckeye's Worker Voting Rights project, which is quickly gaining momentum, earning media attention, and catalyzing action.

As Robert describes in the Forbes piece in more detail (see below for the full article or [click through to Forbes directly](#)), the time has come and the time is right now for Worker Voting Rights.

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# Forbes

## **It's Time For Public Sector Workers To Be Given A Voice And Choice**

Forbes

By Robert Alt

November 27, 2017

Early next year, the Supreme Court will hear *Janus v. American Federation of State, County, and Municipal Employees, Council 31*. Mark Janus is a child support specialist at the Illinois Department of Healthcare and Family Service who objects to paying union fees, which are currently a condition of his employment. He argues that the compulsory fees force him to speak through his union in ways that violate his First Amendment rights.

If Mr. Janus prevails, he and other public-sector employees will be able to choose whether or not to pay union dues or fees without threat of being fired, which would be a tremendous victory for workers. However, even if Mr. Janus wins in court, public sector union members will still have no say regarding which union represents their bargaining unit.

Every morning, hardworking men and women in every state drink their coffee and diligently go to work on our behalf -- in our neighborhoods as public school teachers, home care workers, engineers, and in agencies protecting the environment. Unfortunately, while these civic-minded professionals go to work for us, the labor unions that they must join in order to teach our children or serve our communities do not always work for them.

Once a public-sector union is certified, it remains the workers' representative -- potentially forever. In Ohio, for example, the Columbus Education Association has represented Columbus public school teachers since 1968 -- back when the Beatles were still together and before many of today's teachers were even born.

Heirloom unions inherited from the Nixon-era are depriving today's public workers and civil servants of any meaningful voice or choice in their workplace. Ninety-four percent of union workers have **never had the chance to vote for or against their unions** -- and still won't even if Janus succeeds in his case.

When a public-sector union fails to address employee complaints or mis spends union dues, there is no ballot to cast for change. Instead, public employees remain stuck with the hand-me-down unions that workers who wore bell-bottoms chose for them.

There is a solution.

With worker voting rights, public employees would have regular elections to encourage their unions to be more responsive to their members' interests. Worker voting rights gives union workers an opportunity to be heard, to voice their concerns to their union leaders, to better understand how their union dues are spent, and to choose for themselves whether to keep the union they have, vote their union out, or vote in a better union. Worker voting rights would incentivize union leaders to cultivate broader support among the workforce they represent and to be accountable to their rank-and-file members. Not surprisingly, 82% of unionized Americans **favor holding periodic votes on their union representation.**

Once-and-for-all unions that rarely -- if ever -- face re-election have no worry of being fired by their members for poor performance or disregarding members' concerns. In states that require workers to pay "fair share" fees as a condition of employment, union leadership failure has next to no consequences, because whether the union negotiates better working conditions for its members or not, whether it spends union dues wisely or not, whether it meets the needs of its members or not, there is almost nothing public employees can do to replace or remove the poorly performing union. Even if these public employees are dissatisfied with their representation, they have to continue paying their union dues or fair share fees, or else their employment can be legally terminated.

Public-sector unions and their insulated union officials know and count on this questionable practice of denying their members voting rights, allowing unions that are not taking care of their members to remain firmly entrenched regardless of their

members' satisfaction. But state lawmakers can guarantee worker voting rights for public employees by providing for regular elections by law.

Unions have played a significant role in America's workforce for well over a century. But the interests of the unions themselves should never trump the interests of the hardworking men and women these unions represent. Our civil servants and public-sector employees deserve to have their voices heard and their choices matter -- they deserve worker voting rights.

*Robert Alt is President & CEO of The Buckeye Institute in Columbus, Ohio.*

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p.s. The Buckeye Institute is receiving gifts today as part of "**Giving Tuesday**" and invite you to consider supporting our work, which is transforming public policy at the state level. Check out our **appeal from last year** for explanation of this online phenomenon and background on how it started, then submit a generous donation to **your favorite policy organization** as you are able.

# #GIVING TUESDAY

###

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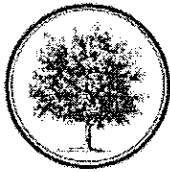
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**FOR IMMEDIATE RELEASE**  
February 24, 2018

### **The Buckeye Institute's Robert Alt: Unions Should Rally Behind the First Amendment Rights of All Public Employees**

= A

**Columbus, OH** -- Robert Alt, president and chief executive officer of **The Buckeye Institute**, issued the following statement regarding the Working People's Day of Action rally in Columbus, Ohio.

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"Today we witnessed the First Amendment in action. Individuals who support unions joined together at a rally to freely express their opinions. But what if instead of rallying and voicing their own opinions, they were forced to pay for the speech of those who oppose unions or else they would be fired? That would be unfair, not to mention violate the First Amendment. Mark Janus and public employees in many states including Ohio face exactly that kind of predicament.

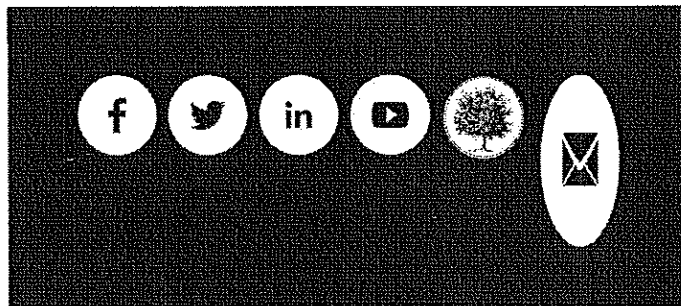
"On Monday, we will once again watch the robust protections of our constitutional system in action as Mr. Janus' case is heard before the Supreme Court of the United States. If Mr. Janus prevails, public employees will no longer be forced to pay for political speech with which they disagree, thus ending the violation of their First Amendment rights.

"While some claim *Janus v. AFSCME* is an attempt to weaken unions, The Buckeye Institute filed an amicus brief demonstrating that unions can still **thrive without compulsory dues**. What will change if Mr. Janus prevails is that our hard-working public servants, even those who disagree with the unions, will have their First Amendment rights protected and respected. And that is something all of us should rally behind."

###

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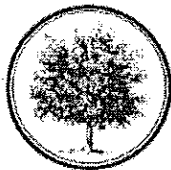
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In a **piece for National Review**, Buckeye's Robert Alt looks at the funding of *Janus v. AFSCME*, saying, "What is surprising is the fact that Mark Janus is personally funding a cadre of high-priced lawyers with one goal: making sure that Mark *loses* his case."

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# NATIONAL REVIEW

**The Money Behind *Janus*: It's Deja vu All Over Again**

National Review  
By Robert Alt  
February 26, 2018

This morning, the Supreme Court will hear oral arguments in *Janus v. American Federation of State, County, and Municipal Employees, Council 31*. The case asks a similar question to one raised just two years ago in *Friedrichs v. California Teachers Association* - namely whether forcing a public employee to choose between subsidizing a union's political speech or being subject to termination for failure to do so violates the First Amendment.

Coming so soon after *Friedrichs* - a case in which the Court deadlocked 4-4 after the tragic and untimely death of Justice Scalia - *Janus* has a déjà vu quality to it. The sense that we have seen all of this before is nowhere more palpable than in the public arguments marshaled by some of the more liberal elements of the media against Mark Janus's case.

Bereft of sufficient legal arguments to justify the First Amendment violations perpetuated against public servants, left-wing publications have resorted to attacking the messenger. Mark Janus, a child-support specialist for the state of Illinois, is accused of being an agent of big corporations and billionaires. The proof? The public-interest law firms that represent Mr. Janus - namely Liberty Justice Center and the National Right to Work Legal Foundation - are accused of taking donations from charitable foundations that support free-market policy.

**Just as in *Friedrichs***, it is perfectly unsurprising that foundations and individuals voluntarily would give to non-profit, public-interest law firms that provide free representation to their clients. Indeed, public-interest firms on both the left and the right regularly rely on charitable donations to carry out their work.

What is surprising is the fact that Mark Janus is personally funding a cadre of high-priced lawyers with one goal: making sure that Mark *loses* his case. Why would he pay for the lawyers arguing against him? Because he has no choice. Mark is required to pay agency fees to the union, which are used for chargeable expenses like litigation, or he can be fired. And, of course, he is required to pay for political collective bargaining speech, or he can be fired.

This is the real story of the money behind the *Janus* case-a story of forced contributions for political speech. But the story could have a happy ending. The Supreme Court will hear arguments today in a case that could vindicate the First Amendment rights of

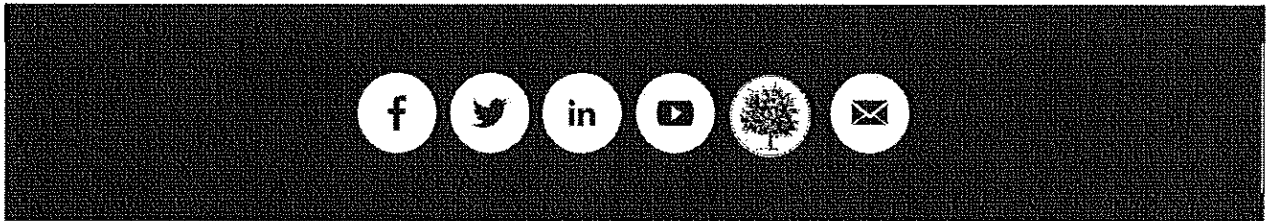
millions of Americans like Mark Janus. For Rebecca Friedrichs, for Mark Janus, and for all the workers who are being denied a voice and a choice, let's hope that the second time is the charm.

*Robert Alt is the president and chief executive officer of The Buckeye Institute.*

###

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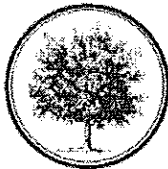
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**FOR IMMEDIATE RELEASE**  
February 26, 2018

### **After Attending Oral Arguments in Janus v. AFSCME, Buckeye's Robert Alt Reacts**

**Columbus, OH** -- Robert Alt, president and chief executive officer of **The Buckeye Institute**, issued the following statement after attending the oral arguments in *Janus v. American Federation of State, County, and Municipal Employees, Council 31* at the Supreme Court of the United States.

"Today, Mark Janus, and all hard-working public employees, had their day in court. Mr. Janus's lawsuit has the potential to be one of the most important labor and free speech cases in the past 40 years.

"Justice Kennedy, who is traditionally a swing vote on the Supreme Court, asked very tough questions of the union lawyers, in which he expressed major concerns about the speech at issue being both compelled and political. Given how frequently Justice Kennedy



is in the majority, his questions have to be a cause of concern for those seeking to continue the practice of forcing public servants to pay for union speech with which they may disagree.

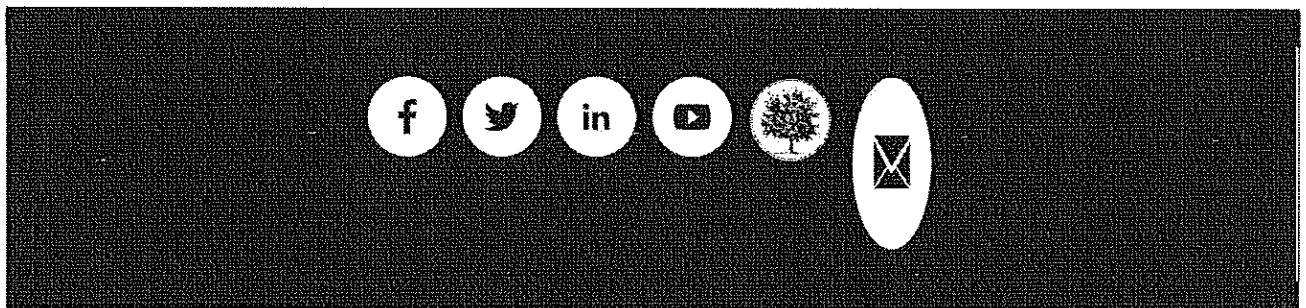
"What Mark, and others before him have done is not easy. Standing up for your rights and the rights of others is rarely an easy thing to do, but it must be done. It is immoral for the government to force hard-working public servants to pay for political speech with which they disagree under the threat of being fired. It is also unconstitutional."

The Buckeye Institute **filed briefs** with the Supreme Court of the United States supporting the free speech rights of public employees like Mr. Janus.

###

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*The Buckeye Institute is a non-partisan, non-profit, and tax-exempt organization, as defined by section 501(c)(3) of the Internal Revenue code. As such, it relies on support from individuals, corporations, and foundations that share a commitment to individual liberty, free enterprise, personal responsibility, and limited government. The Buckeye Institute does not seek or accept government funding.*



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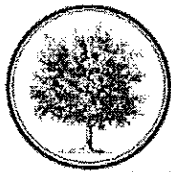
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## THE BUCKEYE INSTITUTE

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Buckeye's Robert Alt, Rea Hederman, and Lisa Gates traveled to Washington, DC, for the oral arguments in *Janus v. American Federation of State, County, and Municipal Employees, Council 31*, and a rally in support of Mark Janus and hard-working public employees this morning.



Robert Alt (center) with Mark Janus and Rebecca Friedrichs outside the U.S. Supreme Court after oral arguments.

Before they left, **Robert commented on the union rally** in Columbus on Saturday, saying:

"While some claim *Janus v. AFSCME* is an attempt to weaken unions, The Buckeye Institute filed an amicus brief demonstrating that unions can still **thrive without compulsory dues**. What will change if Mr. Janus prevails is that our hard-working public servants, even those who disagree with the unions, will have their First Amendment rights protected and respected. And that is something all of us should rally behind."

Before getting in line at 5:45 a.m. to attend the oral arguments this morning, Robert wrote a **piece for National Review** commenting on the funding of *Janus v. AFSCME*, saying, "What is surprising is the fact that Mark Janus is personally funding a cadre of high-priced lawyers with one goal: making sure that Mark *loses* his case."

After the oral arguments, Robert **again offered his expert opinion** to the press and his reaction to today's hearing, saying:

"What Mark, and others before him have done is not easy, but it must be done. It is immoral for the government to force hard-working public servants to pay for political speech with which they disagree under the threat of being fired. It is also unconstitutional."



Robert Alt talks with media about the *Janus v. AFSCME* oral arguments and what the case means for public employees.

While Robert was in the courtroom today, Buckeye's Rea Hederman was on the steps of the Supreme Court speaking at the Stand With Mark rally outside the Supreme Court.



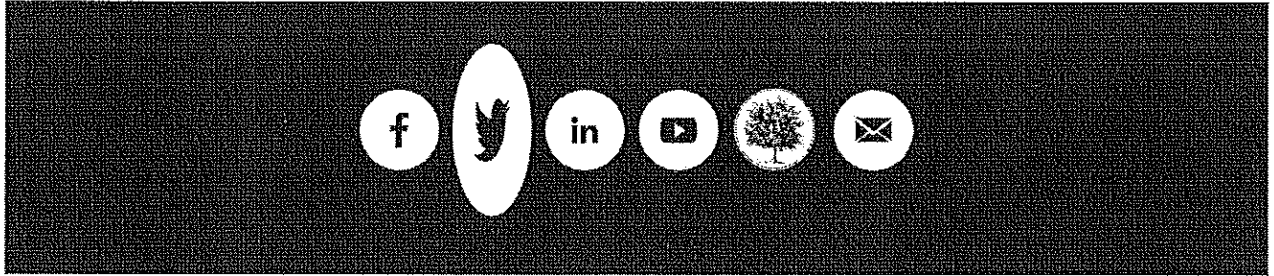
Buckeye's Rea Hederman speaks at the Stand With Mark rally.

###

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**Sent:** Tuesday, February 27, 2018 10:32 AM

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**Subject:** Cap to Cap: This Week: Gun Control and Remembering the Rev. Billy Graham



## Capitol to Capitol

NATIONAL CONFERENCE of STATE LEGISLATURES





Feb. 27, 2018

*In This Issue:*

**This Week: Gun Control and Remembering the Rev. Billy Graham**

**US Supreme Court Hears Arguments in Union Dues Case**

**White House Meeting on School Safety**

**Supreme Court to Hear Online Sales Tax Case in April**

**DACA and Immigration Debate Stalls in Senate**

**Congressional Appropriators Race to March 23 Deadline**

**House Republicans Signal Willingness to Negotiate with Senate on Banking Reform Measures**

**Also of Note...**

**This Week: Gun Control and Remembering the Rev. Billy Graham**

Congress returned yesterday from its Presidents' Day recess, which was dominated by the issue of gun control. Since the Feb. 14 shooting at Stoneman Douglas High School in Parkland, Fla., the nation has been immersed in an intense debate on what to do to prevent future school shootings. However, don't expect Congress to act this week. While the Senate will be in session all week, the House will conclude business today to make way for the remembrance of Rev. Billy Graham, who will become only the fourth private citizen to lie in honor in the Capitol Rotunda on Wednesday and Thursday.

**US Supreme Court Hears Arguments in Union Dues Case**

Perhaps the most significant debate on Capitol Hill this week will take place yesterday in the U.S. Supreme Court. The decision could not only affect every member of a public sector union but also result in the largest shift in federal education policy in 40 years.

On Monday, the U.S. Supreme Court heard oral argument in Janus v. American Federation of State, County and Municipal Employees (AFSCME) Council 31. Mark Janus, a public-sector employee in Illinois, is challenging the constitutionality of a state statute allowing public sector employers and unions to agree that employees who don't join the union must still pay their "fair share" of collective bargaining costs. Janus argues that

requiring him to pay his "fair share" of union dues is a violation of his First Amendment free speech rights. Janus asserts he should have the choice to join or not join, pay or don't pay.

Since 1977, when the US Supreme Court ruled in Abood v. Detroit Board of Education, public employees subject to fair share agreements have been required to pay for union representation, even if the worker doesn't join the union.

It is estimated that *Janus v. AFSCME* could impact 5.5 million public sector employees. The ruling could alter the relationship between labor and management, nationwide union membership and dues collection. At present, 22 states authorize fair share for public sector employees.

The *Janus* decision may have an outsized impact on public education given that two of the three largest public sector unions in the nation relate to education= 7the National Education Association and the American Federation of Teachers. Employees in education had the highest unionization rate of all sectors, with 37.2 percent being represented by a union.

On Dec. 5, attorneys general in 20 states (Michigan, Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Louisiana, Missouri, Nebraska, Nevada, Oklahoma, South Carolina, Tennessee, Texas, Utah, West Virginia, and Wisconsin) filed an amicus curiae brief in support of Janus. On Jan. 19, attorneys general in 20 states (New York, Alaska, Connecticut, Delaware, Hawaii, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia and Washington) and the District of Columbia filed an amicus curiae brief in support of AFSCME.

In 2016, the U.S. Supreme Court considered a similar case Friedrichs v. California Teachers Union. With the death of Justice Antonin Scalia, the Court deadlocked with a 4-4 decision. Justice Gorsuch could be the swing vote to overturn *Abood*. A decision is expected by the end of June.

**NCSL Contacts:** Jon Jukuri (labor), Joan Wodiska (education)

**DYK?** Sunday marked the 25th anniversary of the first terror attack on the World Trade Center. The attack, which killed six people and injured more than a thousand others, involved Islamic terrorists who blew up a 1,200 pound bomb in an underground parking garage in an attempt to collapse the twin towers.

### **White House Meeting on School Safety**

In the wake of the Parkland, Fla., school shooting, last week President Donald Trump, Vice President Mike Pence, and Secretary of Education, Betsy DeVos met with more than 40 survivors, teachers and community members to discuss strategies to reduce school violence. In the meeting, the president expressed his support to improve federal background checks on gun purchases, equip school staff with firearms and explore other avenues to improve school safety. The president also issued a Presidential Memorandum directing the U.S. Department of Justice to "expeditiously as possible, to propose for notice and comment a rule banning all devices that turn legal weapons into machineguns." An official federal regulatory review of the "bump stock" rule began last fall, following the deadly shooting in Las Vegas, Nev. Over 100,000 comments were received and are being reviewed by the Justice Department.

**NCSL Contact:** Joan Wodiska

### **Supreme Court to Hear Online Sales Tax Case in April**

On Friday, the Supreme Court set the argument date for the *South Dakota v. Wayfair* remote sales tax case for Tuesday, April 17. If the court rules in the South Dakota's favor, every state could be granted the authority to require remote businesses to collect and remit sales taxes on transactions made by their state's residents. If South Dakota loses, the long-term viability of the sales tax as a state revenue stream for states may be in jeopardy. For more, visit NCSL's page that summarizes the case as well as the history of remote sales tax collection issue in the states.

**NCSL Contacts:** Max Behlke, Jake Lestock

### **DACA and Immigration Debate Stalls in Senate**

Before Congress recessed, and before the re-emergence of the gun control debate, a fierce debate on immigration consumed Capitol Hill. However, lawmakers on Capitol Hill failed to reach a consensus on the issues of immigration reform, border security and the "Dreamers" and there is still no clear path forward for a comprehensive deal. In the Senate, neither of the four immigration-related proposals cleared the 60 vote threshold needed to advance legislation and it is unlikely that any proposal from the House would be entertained by the Senate.

While the president had set March 5 as the deadline for Deferred Action for Childhood Arrivals (DACA) recipients, at which point he would terminate the program, federal district judges in California and New York have delayed that possibility, thus allowing more time for negotiators to work out a deal. On Monday morning, the U.S. Supreme Court denied the administration's request to rule on the legality of DACA in advance of a U.S. Circuit Court decision. In a one sentence denial of the administration's request, the Court stated, "[I]t is assumed that the Court of Appeals will proceed expeditiously to decide this case." The Court of Appeals is expected to rule on the injunction as early as April.

**NCSL Contact:** [Susan Frederick](#), [Lucia Bragg](#)

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**NCSL Contact:** [Susan Frederick](#), [Lucia Bragg](#)

**DYK?** Since 1870, when Senator [Hiram Revels](#) of Mississippi and Representative [Joseph Rainey](#) of South Carolina became the first African Americans to serve in Congress, a total of 153 African Americans have served as U.S. Representatives, Delegates, or Senators.

## **Congressional Appropriators Race to March 23 Deadline**

The Bipartisan Budget Act of 2018 included the fifth continuing resolution (CR) for fiscal year (FY) 2018 and set new spending caps on how much the government can spend through FY 2019. Now, lawmakers have just four weeks to craft the 12 annual appropriations bills, or one combined omnibus bill, before March 23 when the government is at risk of another government shutdown. To make things even more complicated, the budget deal also had several informal agreements that were agreed to, but did not give specifics. This includes yearly funding of:

- \$3 billion to "fight against the opioid and mental health crises."
- \$10 billion for infrastructure.
- \$2 billion to "rebuild and improve" veteran's health care.
- \$2 billion for "college affordability."
- \$2.9 billion for the child care development block grant.
- \$1 billion for the National Institutes of Health.

Now, appropriators will have to translate how this funding will look while the party leaders act as chaperones to make sure everybody complies with the deal's stipulations. This also may be the last major legislative vehicle of the year, so you can bet lawmakers are rushing to get their priority bills added to the omnibus. The budget deal reached earlier this month also created a joint committee that is specifically tasked with "advancing reforms to the budget and appropriations process." Last week, House leaders made their selections on who would try to tackle this monstrous task. Speaker Paul Ryan chose Steve Womack (R-Ark.), Rob Woodall (R-Ga.), Jodey Arrington (R-Texas), and Pete Sessions (R-Texas), while Minority Leader Nancy Pelosi chose Nita Lowery (D-N.Y.), Lucille Roybal-Allard (D-Calif.), Derek Kilmer (D-Wash.) and John Yarmuth (D-Ky.). Senate leaders have yet to name their eight members to the reform committee.

NCSL Contacts: [Max Behlke](#), [Jake Lestock](#)

**DYK?** On Feb. 25, 1863, 155 years ago, President Abraham Lincoln signed the National Currency Act (later called the "National Bank Act"), which was the first attempt to establish a central bank following the failures of the First and Second Banks of the United States. The law aim to address the hodge-podge of local banks, local money, and conflicting regulatory standards that existed before the Civil War. The act allowed for the creation of national banks, planned for a national currency, and gave the federal government the ability to sell war bonds and securities.

## **House Republicans Signal Willingness to Negotiate with Senate on Banking Reform Measures**

House Financial Services Committee Chair, Jeb Hensarling (R-Texas), appears to be open to negotiations with the Senate on Dodd-Frank rollback measures. Hensarling, who has a steady track record of wanting to wholly dismantle Dodd-Frank, now seems to be open to more moderate reforms in a strategic attempt to get legislation to the president's desk.

Hensarling's original banking reform legislation, the Financial CHOICE Act of 2017, would have removed significant portions of Dodd-Frank. His new strategy consists of multiple individual bills amounting to an a la carte offering of banking reform measures. House Republicans are hoping that this strategy is more palatable to moderate senators than the sweeping Financial CHOICE Act, which many deemed D.O.A. in the Senate last year after it passed the House.

In his attempt to work with the Senate, Hensarling seems willing to ease up on tough reform proposals designed to slash the Consumer Financial Protection Bureau—an agency that has proven to be a political lightning rod since its Dodd-Frank inception in 2010. Bipartisan policies that seem to be on the table in both chambers include relaxing regulatory oversight of credit rating agencies and increasing capital holdings thresholds for small and mid-sized banks that currently require heightened scrutiny under Dodd-Frank.

These latest attempts to move bi-partisan banking reform legislation come at the chagrin of some Democrats who feel that such measures would amount to taking a step back after progress made in the post-Great Recession era. If the House and Senate can successfully negotiate the legislation, the president has signaled ardent support for legislation that rolls-back Dodd-Frank in any form.

**NCSL Contact:** Ethan Wilson

### **Also of Note...**

- Governors to Washington: Stop dithering on guns – POLITICO

State leaders from both parties implored federal lawmakers this weekend to listen to their states' examples for responsible firearm legislation after the school shooting in Parkland, Fla., increasingly exasperated with the slow pace of debate and halting progress in the nation's capital.

- [Trump's personal pilot 'in the mix' to lead the Federal Aviation Administration](#) – Washington Post

President Trump's personal pilot is "in the mix" to lead the Federal Aviation Administration, a White House official confirmed Sunday night.

- [After testy call with Trump over border wall, Mexican president shelves plan to visit White House](#) – Washington Post

Tentative plans for Mexican President Enrique Peña Nieto to make his first visit to the White House to meet with President Trump were scuttled this week after a testy call between the two leaders ended in an impasse over Trump's promised border wall, according to U.S. and Mexican officials.

- [California Democratic Party doesn't endorse Feinstein re-election bid](#) – Fox News

The California Democratic Party will not endorse Sen. Dianne Feinstein's re-election bid this year, with delegates at the party's annual convention giving the majority of votes to her top primary challenger, progressive State Sen. Kevin de Leon.

- [Read the Democratic rebuttal to the Nunes memo, annotated](#) – Washington Post

[Read the Feb. 12, 2018 Capitol-to-Capitol.](#)

Like Capitol-to-Capitol? Have ideas or suggestions for how it can be improved? Please take two minutes to let us know in this [very short survey](#)!

We are always looking for interesting trivia about states, legislatures and American history. If you have some great facts, don't keep them to yourself. Let us know by clicking [here](#). We will likely include them in a future edition of Capitol to Capitol!

If you have comments or suggestions, please contact [Max Behlke](#).

[Read More](#)



*Capitol to Capitol is a publication of the National Conference of State Legislatures. NCSL is recognized as a formidable lobbying force in Washington, D.C. NCSL works to protect states from unfunded federal mandates and unwarranted federal pre-emption of state authority, and seeks to provide state legislatures the flexibility they need to innovate and be responsive to the unique needs of their residents. NCSL's advocacy is guided by the policy directives and resolutions adopted during NCSL's Legislative Summit.*



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**ALEC Digital Exchange: March 1, 2018**



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**ALEC In Action**

## **ALEC Joins Rally for Mark Janus at U.S. Supreme Court**

Robert Ordway | Commerce, Insurance and Economic Development



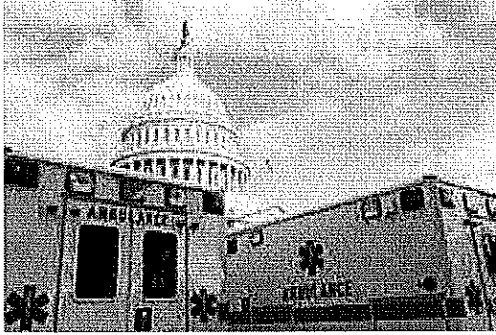
ALEC Staff joined hundreds of workers, teachers, policy professionals and many others outside the United States Supreme Court to rally in support of Mark Janus in his worker freedom case being heard by the court. Some see this case as an opportunity to expand worker freedom through choice, making it a potentially landmark decision in labor reform. To learn more about the *Janus* case and the judicial history of worker freedom, follow the link below.

[Read Article](#)

## Legislator Voices

### Health Care and the Individual Insurance Market

Speaker Linda Upmeyer | Iowa State Legislature



Iowa once had a stable and affordable health insurance market. Premiums were low, consumers had several choices, and our uninsured rate was lower than the national average. Following the enactment of Obamacare and its mandates, Iowa's market has collapsed. Iowa's unfortunate story is similar to many other states. It is time for states to act and do what they can to provide their citizens with affordable and accessible health coverage.

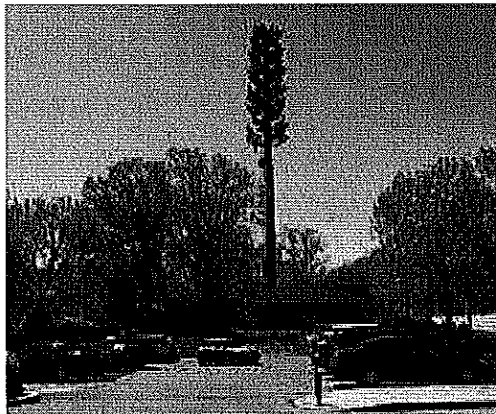
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## Communication and Technology

### FCC Announces Wireless Broadband Federal Review and Approval Modernizations

Jonathon Hauenschild | Communication and Technology



Is it possible for government to spur infrastructure spending and growth without spending a dime? That is what the Federal Communications Commission plans to do, according to a proposal discussed recently by Commissioner Carr. In a nutshell, the proposal would speed the process for deploying the next generation of broadband and mobile technology, and reducing both time and cost of implementation.

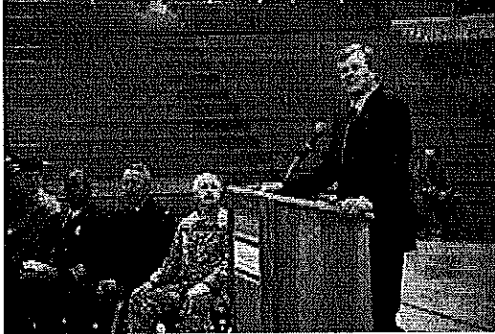
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## State of the State Analysis

## State of the State: Center for State Fiscal Reform Looks Eastward

Thurston Powers | Center for State Fiscal Reform



The Center for State Fiscal Reform continues its in-depth analyses of State of the State addresses from across the nation. The center is focused on highlighting both strong and weak fiscal policies outlined in the speeches, and their effects on the specific states. New this week are the analyses of eastern seaboard states Virginia, Maryland and Massachusetts. To see all the responses so far, follow the link below.

[View Articles](#)

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## ALEC-FreedomWorks Legislator of the Week

### A Standard Bearer for Tax Reform in North Carolina

Representative Jason Saine | NC-97



This week, ALEC and FreedomWorks introduce **North Carolina Representative Jason Saine**. Representative Saine also serves as the 2018 National Chairman of the American Legislative Exchange Council. Saine has been a driving force behind tax reform in his home state, and is proud of the results, saying, "We've seen surplus year after year while cutting taxes and keeping spending in line with the growth of our state economy."

[Read Article](#)

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STFS 2018

**Register Now for the Spring Task Force Summit**



Early Bird registration is currently open for the 2018 Spring Task Force Summit. The summit will take place on **April 27, 2018 in Grand Rapids, MI**. Click the link below to get more information and register for the conference.

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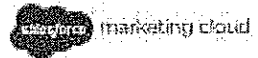


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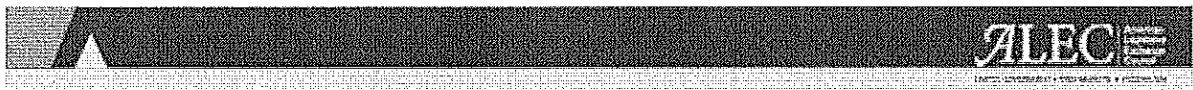
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**Events and Education - March 6, 2018**



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## Register for Spring Task Force Summit Today

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[Register Here](#)

## ALEC in Action

### ALEC Joins Janus Rally at Supreme Court

Robert Ordway | Commerce, Insurance and Economic Development



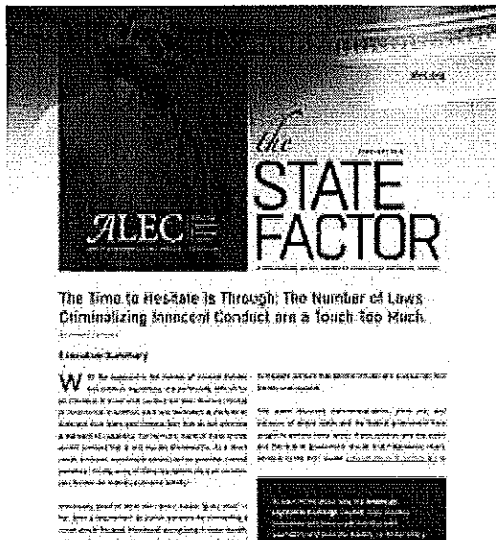
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[Read Article](#)

## Recent Publications

### Stay Current with ALEC Publications

American Legislative Exchange Council



ALEC scholars and directors work to provide you with education on the issues that matter to you. In the last month, ALEC has released two publications: **The Time to Hesitate is Through: The Number of Laws Criminalizing Innocent Conduct is a Touch Too Much**, which deals with overcriminalization and *mens rea* reform; and the **2017 State Tax Cut Roundup**, which concerns tax reform at the state level over the past legislative session. To check out all ALEC publications, follow the link below.

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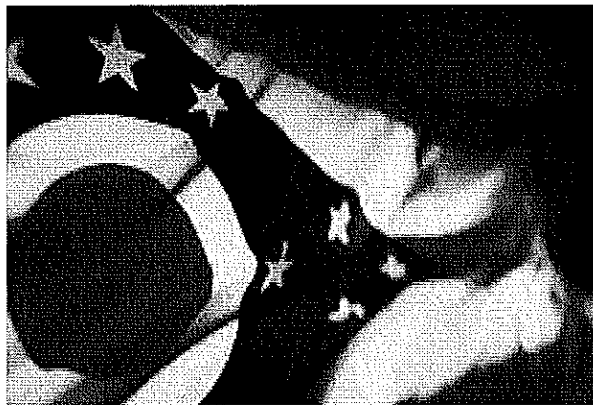
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**April 6**  
**2018 Ohio Lawyers Chapters Conference**

10:30 AM - 5:00 PM

The Westin Columbus

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The 2018 Ohio Lawyers Conference is now approved for **4.5 hours of CLE credit**. Reserve your spot now; beginning on April 4, the price will increase. This will also be the last Federalist Society event in Columbus until late May or early June; do not miss it.

[RESERVE YOUR SPOT AT THIS LINK](#)

The complete schedule:

**Opening Remarks**

11:00 AM - 11:10 AM

- **Chad A. Readler**, Acting Assistant Attorney General, Civil Division, United States Department of Justice

**Introduction to Originalism and Federalism: Where Are the Courts Heading?**

11:10 AM - 12:15 PM

Since the 1980s, the originalist approach to constitutional interpretation has gained greater and greater acceptance in legal circles, and the number of originalists within the Supreme Court and the federal judiciary has grown. At the same time, originalism still has fierce critics who argue that it is an inappropriate method for constitutional interpretation. Likewise, in the last decades of the 20th century the U.S. Supreme Court breathed new life into a federalist view of the Constitution and the relationship between the federal government and the states. As with originalism, the federalist movement has its own strong critics. The panelists will discuss these two legal concepts. What are originalism and federalism, really? Are they valid or flawed? What developments may we see from the federal courts with regard to these concepts in the future—particularly in light of Neil

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Gorsuch's joining the U.S. Supreme Court in 2017? And how do these concepts apply to the work of ordinary legal practitioners?

- **Jonathan Adler**, Johan Verheij Memorial Professor of Law; Director, Center for Business Law and Regulation, Case Western Reserve University School of Law
- **Eric Murphy**, State Solicitor, Ohio
- **Peter M. Shane**, Jacob E. Davis and Jacob E. Davis II Chair in Law, Ohio State University Moritz College of Law
- **Hon. Gregory G. Katsas**, United States Court of Appeals, District of Columbia Circuit (**Moderator**)

**Lunch Discussion: *Janus v. Afscme***

Lunch Buffet: 12:15 PM - 12:30 PM

Discussion: 12:30 PM - 1:30 PM

Earlier this year the U.S. Supreme Court heard oral arguments in *Janus v. American Federation of State, County, and Municipal Employees, Council 31*. The case turns on the question of whether “agency fee” arrangements—which require workers to pay union fees to public sector unions to cover the unions’ activities other than political action—violate the First Amendment to the United States Constitution. The Supreme Court previously found such mandatory union fees to be constitutional in *Abood v. Detroit Board of Education* (1977). However, in 2016, the Supreme Court split 4-4 on this question in *Friedrichs v. California Teachers Association*. William L. Messenger, who delivered the oral argument on behalf of Mark Janus, will explain the legal arguments in favor of his client’s position. Professor Hebert will explain the legal arguments in favor of the union’s position. Mr. Messenger and Professor Hebert will also discuss how public sector unions could be impacted if the Supreme Court finds agency fee arrangements to be unconstitutional.

- **L. Camille Hebert**, Carter C. Kissell Professor of Law, Moritz College of Law at Ohio State University

- **William L. Messenger**, Staff Attorney, National Right To Work Legal Defense Foundation
- **Robert Alt**, President and Chief Executive Officer, The Buckeye Institute (**Moderator**)

### **Criminal Justice Reform: A Necessary Correction or a Dangerous Experiment?**

1:45 PM - 3:00 PM

Demand for criminal justice reform appears to be growing across the political spectrum. Bipartisan coalitions have formed to address overcriminalization, prison reform, bail bond reform, sentencing guidelines reform, and more. Panelists will explore these efforts. Are reforms truly needed, or does the criminal justice system already work well? If reforms are needed, what reforms are best—and are there reforms in other states that may be worth exploring in Ohio? What efforts have the Ohio General Assembly and the Ohio Supreme Court made to address criminal justice reform? Are there arguments that criminal law practitioners should be making in the courtroom in light of these legal developments?

- **Heather Childs**, Vice President, Compliance, Capital One
- **Daniel Dew**, Legal Fellow, Buckeye Institute
- **Hon. Dave Yost**, Ohio State Auditor
- **Hon. Sharon Kennedy**, Associate Justice, Ohio Supreme Court (**Moderator**)

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### **Analyzing Ohio's Judicial System and the Ohio Supreme Court**

3:15 PM - 4:30 PM

What methods of interpretation should Ohio courts use in constitutional matters and in

cases involving disputes over statutory text? Does the Ohio Supreme Court have obligations or restrictions different from those facing federal courts? Are there systemic problems in the Ohio judicial system that the Ohio Supreme Court needs to address? Has the Ohio Supreme Court improperly ignored established precedent or constitutional or statutory requirements in ways that need to be corrected? Can judges really maintain independence if they are elected by voters and must run in partisan primaries? If so, how? What role do lawyers play in building citizen trust and support in the judiciary? Candidates for the two current vacancies on the Ohio Supreme Court will share their views on how the Ohio Supreme Court should address these and other questions. They will also explain how their views are informed and shaped by the Ohio Constitution, the Ohio canons of judicial ethics, and past studies of the administration of justice in Ohio's courts.

- **Hon. Craig Baldwin**, Fifth District Court of Appeals
- **Hon. Mary DeGenaro**, Associate Justice, Ohio Supreme Court
- **Hon. Michael Donnelly**, Cuyahoga County Common Pleas Court
- **Hon. Melody Stewart**, Eighth District Court of Appeals
- **Douglas R. Cole**, Partner, Organ Cole LLP (**Moderator**)

## **Reception**

4:30 PM - 5:30 PM



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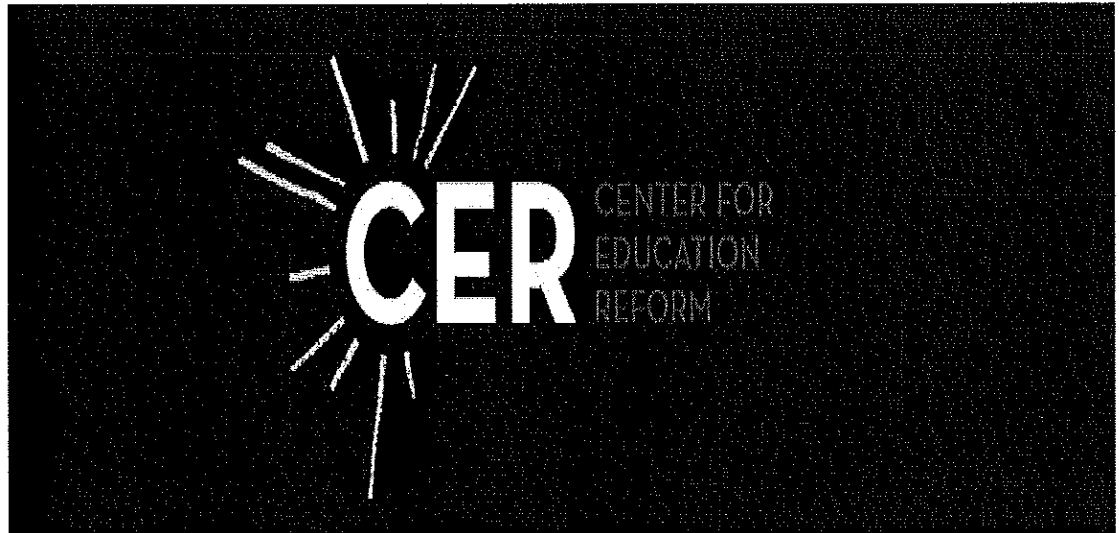
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# newswire@

A weekly report on education news and commentary you won't find anywhere else — from the nation's leading voice on education innovation and opportunity.

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**CAUTION:** This newswire contains serious and thought-provoking commentary on teacher pay and teacher strikes.

**IN LIGHT OF THE TEACHER STRIKES**, we are compelled to bring you some facts, research and data about teacher pay that we hope will enlighten and inform readers and help you avoid simply falling into the trap of saying to yourself, "Oh wow, this is awful that we pay teachers so poorly..." Indeed, we

do pay teachers poorly, and the pay scales and structures of how teachers are hired, rewarded, retained and paid later in retirement are completely broken. This is not an exhaustive analysis, just a smattering of thoughts that should propel you to do your research before jumping to conclusions.

**MOST ARE OUTRAGED BY TEACHER PAY LEVELS.** How bad are they, really? The answer is, It depends. Confirms the California education blog ED100: "It is difficult to accurately compare teacher pay with private sector pay, because they work differently. In a simple comparison, teacher salaries can seem worse than they are. Private-sector workers' retirement dollars flow through paycheck deductions and build up in a way that is easy to count. They show up on a monthly statement. They accumulate in an account... Teacher pensions, by contrast, don't accumulate. Like a life insurance contract, teacher pensions are a promise of future payments. The 'payout' on this contract varies mostly on how long the beneficiary lives." Incidentally, that payout results in teachers being able to retire and earn nearly their full salary for every year of their lives afterward.

**Then there are union dues**, which can be another \$600-\$1,000 a year, with no obvious benefit other than to be told why your profession is underpaid and encouraged to strike... This why tens of thousands of teachers oppose these compulsory paycheck fees, teachers like California's Rebecca Friedrichs who took her case to the Supreme Court and Illinois' Mark Janus who is awaiting the High Court's decision on his challenge (which will likely be handed down this June). (For background reading, see this op-ed by CER's CEO, Jeanne Allen, and listen to this podcast with Mark Mix, president of the organization that represents Mark Janus.)

**STRIKING FOR THE WRONG THING?** The teacher unions won't tell them, but the teachers who are striking across the country aren't going to solve anything even if the legislatures give them an annual raise. Why such a strident statement? Consider the following number: **\$1,000 PER PUPIL**. That's the annual cost of employee pensions. Imagine a school of 600 students



— that's \$600,000! Let's just say half those funds could go to teachers instead of the state pension coffers upfront. There are approximately 26 classroom teachers in a school that size, if we are talking a traditionally organized school. If you took just half of those funds and put them in teachers' salaries in that school, they'd be earning another \$11,000 a year each! Please note that these funds are above and beyond employee contributions, Social Security and taxes.

**LET'S TALK MORE ABOUT PENSIONS.** As teachers retire they will need to access the pensions they were promised and which the state has paid into. Those funds are paid by the current crop of teachers, to the tune of ten percent of their earnings. Let's take the average pay for an Oklahoma teacher — \$50,000 (which is equivalent to about \$76,000 in Stamford, Connecticut. For all you *New York Times* readers, the cost of living in the Northeast is between 40-60% higher). According to a study from the National Center for Analysis of Longitudinal Data in Education Research, "On average across state plans, over ten percent of current teachers' earnings are being set aside to pay for previously accrued pension liabilities. This amounts to a large reduction in real operating spending per student. . . . A significant fraction of the resources allocated toward teacher compensation in current public education budgets *is not being invested in resources to educate today's students at all.*"

**WHAT TO DO?** Researchers who have been studying this issue for years argue that there are several policy changes that could favor teachers while they work and reduce the pension burden that accumulates on states that are constantly threatened by shifting economic conditions: "(1) transition teachers to defined-contribution retirement plans, (2) transition teachers to cash-balance retirement plans, and (3) tighten the link between funding and benefit formulas within the current defined benefit structure."

**IF YOU REALLY WANT TO GET SMART** on teacher pensions, you need to spend some time here. The solutions guiding what teachers make and what

the state spends, on top of pension costs. There have been dramatic increases in the past ten years in public pension and benefit spending.

**TIME TO RETHINK TEACHER PAY.** We're rethinking everything else — higher ed, K-12, workforce, school safety — so how about teaching? First, compensation is wildly uneven, being delivered to teachers through schools based on state rules governing experience and pay schedules that often see teachers meeting the peak of their salary years after most other professions, in their 50s! As respected researcher Marguerite Roza writes for the left-leaning Brookings Institution, "...a disproportionate amount of available salary funds is concentrated on teachers at the end of their career."

"District leaders are steering a disproportionate share of the highly constrained public education funds toward a small segment of the teaching force — the group of teachers *least* likely to leave teaching. The National Center for Education Statistics Teacher Follow up Survey reports that while fewer than four percent of teachers with more than 20 years' experience leave before retirement, 13.5 percent of teachers with under five years' experience do. The lower turnover among senior teachers might be a result of the higher salaries, or of proximity to pension earnings — we don't know for sure... But current distribution patterns leave few dollars for pay raises in a teacher's earlier years where turnover is most acute.

***"These practices not only result in lower salaries for most teachers, they also channel funds in ways that jeopardize equity across schools and create havoc for district financial stability."***

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"Most public-school teachers' salaries are determined by years in the classroom and degrees held. But a new study from the Manhattan Institute shows that the premium we pay for teacher experience is far greater than is typically acknowledged."

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Founded in 1993, the Center for Education Reform aims to expand educational opportunities that lead to improved economic outcomes for all Americans — particularly our youth — ensuring that conditions are ripe for innovation, freedom and flexibility throughout U.S. education.

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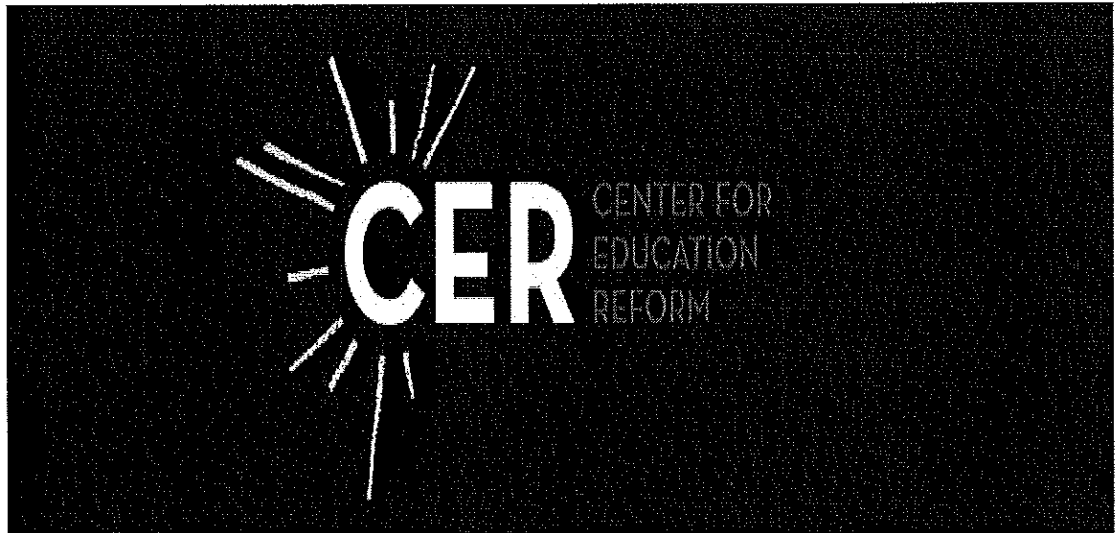
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**Sent:** Friday, April 13, 2018 5:02 AM  
**To:** Rep48  
**Subject:** For La. Judicial Nominee, The Safe Approach Turns Risky



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Friday, April 13, 2018

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## TOP NEWS

### Feature

#### **For La. Judicial Nominee, The Safe Approach Turns Risky**

Wendy Vitter, a Republican lawyer tapped by President Donald Trump for the federal bench in Louisiana, may be in store for a tumultuous fight for her appointment despite following the typically pallid game plan employed by nearly all judicial picks when they appear before congressional confirmation hearings. [Read more »](#)

#### **Judiciary Panel To Push Mueller Bill, Grassley Says**

Senate Judiciary Committee Chairman Chuck Grassley intends to move forward on a bill to protect Special Counsel Robert Mueller from being fired, he said Thursday, despite his own misgivings with the measure and concerns in his party. [Read more »](#)

#### **Trump Demands Changes To EPA Air Pollution Programs**



[Listen to our new podcast here](#)

### LAW FIRMS

Allen & Overy

Arnold & Porter

Baker McKenzie

President Donald Trump on Thursday instructed the U.S. Environmental Protection Agency to make it easier for states and industries to comply with national air emissions standards for pollutants like ozone, nitrogen dioxide and lead, a move promptly denounced by environmentalists [Read more »](#)

### **Senate Confirms Trump's Judicial Picks In Kan., Ky.**

The Senate confirmed President Donald Trump's picks for judgeships in Kansas and the Western District of Kentucky Thursday, sending two private practice attorneys to the federal bench. [Read more »](#)

### **Facebook Drops Fight Against Calif. User Privacy Proposal**

Facebook is backing off its opposition to a proposed ballot initiative in California that would allow consumers to find out more information about and have more control over the way businesses collect, use, share and sell their personal data, supporters of the initiative said. [Read more »](#)

### **Bill To Hike Judges' Salaries Heads To NJ Governor's Desk**

A New Jersey bill that would give salary increases to certain state workers, including judges who have gone without raises for nearly a decade and make less than their federal counterparts, passed both houses of the state legislature Thursday and now heads to Gov. Phil Murphy's desk. [Read more »](#)

## **BANKING & SECURITIES**

### **Dems Want Bank CEO Info On 'Quid Pro Quo' Army Sec. Deal**

A pair of senior House Democrats on Thursday asked a bank CEO who was reportedly promised the Army secretary's role in exchange for loans to former Trump campaign chairman Paul Manafort to hand over information on those loans, and his contacts

Bryan Cave  
Covington & Burling  
Cravath Swaine  
DLA Piper  
Dechert  
Drinker Biddle  
Faegre Baker  
Fenwick & West  
Foley & Lardner  
Frost Brown Todd  
Gibson Dunn  
Gupta Wessler  
Hinkle Law Firm  
Hogan Lovells  
Holland & Knight  
Jeffer Mangels  
Kirkland & Ellis  
Kostelanetz & Fink  
Kramer Levin  
Middleton Reutlinger  
Morgan Lewis  
O'Melveny & Myers  
Paul Hastings  
Potter Minton  
Ropes & Gray  
Saul Ewing  
Shearman & Sterling  
Sheppard Mullin  
Siegel & Yee  
SmithAmundsen LLC  
Steptoe & Johnson LLP  
Taft Stettinius  
Van Ness Feldman  
Wiley Rein  
Wilkinson Barker  
WilmerHale  
Womble Bond Dickinson

## **COMPANIES**

with the campaign, citing a letter from the U.S. Department of Defense they said had appeared to validate the allegation. Read more »

## ENERGY & ENVIRONMENTAL

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### **Senate Confirms Faegre Baker's Wheeler For EPA's No. 2 Post**

The U.S. Senate on Thursday confirmed Faegre Baker Daniels LLP attorney and lobbyist Andrew Wheeler to serve as the U.S. Environmental Protection Agency's deputy administrator, putting in place a potential replacement who could step in as acting EPA chief if Administrator Scott Pruitt is fired or steps aside. Read more »

### **EPA To Let Calif. Tribes Design Own Water Quality Standards**

Two California Native American tribes will now have the ability to develop their own water quality standards within their reservations under the federal Clean Water Act just as states are authorized to do, the U.S. Environmental Protection Agency announced Thursday. Read more »

## HEALTH & LIFE SCIENCES

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### **States Expanding Efforts To Tackle Prescription Drug Prices**

State enforcers have played an important role in policing the pharmaceutical industry and prescription drug prices in particular, and their work in the area continues to expand, officials said during an event in Washington, D.C. on Thursday. Read more »

### **Visium Took Medicare Tips With 'Grain Of Salt,' Jury Hears**

Former Visium Asset Management trader Christopher Plaford took health spending policy tips from expert consultant David Blaszcak with "a grain of salt," getting information from others alongside the man

3M Company  
AAR Corporation  
AT&T Inc.  
AbbVie Inc.  
Airbnb Inc.  
American Bar Association  
American Civil Liberties Union  
American Federation of Labor and Congress of Industrial Organizations  
American Gaming Association  
Apple Inc.  
Association of American Railroads  
Barnes & Noble Inc.  
Booking.com BV  
Burford Capital LLC  
CTIA  
Cable News Network Inc.  
Charter Communications Inc.  
Comcast Corporation  
Competitive Carriers Association  
Competitive Enterprise Institute  
DISH Network Corporation  
Deerfield Management Co. LP  
Duke Energy Corporation  
ESPN Inc.  
Environmental Defense Fund Inc.  
Equifax Inc.  
Facebook  
FedEx Corporation  
FirstEnergy Corp.  
Gentiva Health Services, Inc.  
Google Inc.  
Home Box Office Inc.  
International Brotherhood of Electrical Workers  
International Trademark Association  
Johnson & Johnson

charged with feeding secret Medicare and Medicaid information to Wall Street, a Manhattan jury heard Thursday. [Read more »](#)

## IP & TECHNOLOGY

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### **Booking.com Asks Full 4th Circ. To Nix USPTO Atty Fee Rule**

Booking.com is pushing for an unusual fast-track appeal to the en banc Fourth Circuit after it was ordered to pay the U.S. Patent and Trademark Office a whopping \$76,000 in attorneys' fees even after winning a case. [Read more »](#)

## MEDIA & ENTERTAINMENT

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### **Major League Unions Want In On Sports Betting Rodeo**

As a 25-year-old federal ban on sports gambling nears its possible demise in the U.S. Supreme Court, unions representing players in the four major professional sports leagues Thursday demanded an equal voice in the legalization conversation that has been dominated by the states, the leagues' governing organizations and the gambling industry. [Read more »](#)

### **Invalid Arguments Raised In E-Filing Row, News Outfit Says**

A legal news organization told the Seventh Circuit on Thursday that an Illinois county court clerk should not be allowed to raise new arguments to the appellate panel that she did not make to the district judge who ordered her to make e-filed legal complaints available to the public immediately. [Read more »](#)

## TRANSPORTATION & INFRASTRUCTURE

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Analysis

### **What To Watch As The Surface Transportation Board Staffs Up**

Kinder Morgan  
Knorr-Bremse AG  
Major League Baseball Inc.  
Major League Baseball Players Association  
Medtronic Inc.  
Microsoft Corporation  
Murray Energy Corp.  
NBCUniversal Inc.  
NFL Enterprises LLC  
National Basketball Association  
National Basketball Players Association  
National Express Transit Corp.  
National Football League Players Association  
National Hockey League  
National Hockey League Players Association  
Nationwide Mutual Insurance Co.  
New Jersey State Bar Association  
News Corp.  
Northern Mariana Islands Retirement Fund  
Novartis AG  
Nuclear Energy Institute  
Planned Parenthood Federation  
Procter & Gamble Co.  
Russell Reynolds Associates Inc.  
SAIC Inc.  
Sierra Club  
Sinclair Broadcast Group, Inc.  
Southeastern Pennsylvania Transportation Authority  
Straight Path Communications Inc.  
TBS International Limited  
Tax Foundation  
The DIRECTV Group, Inc.  
The Fertilizer Institute

The Surface Transportation Board is inching closer to filling out its ranks if President Donald Trump's two nominees are confirmed, enabling the rail regulator to more swiftly tackle long-anticipated new rules to stimulate rail competition and smooth out high-profile rate and service disputes along the country's railways. [Read more »](#)

## REAL ESTATE

### Analysis

#### **LA Decision 'Blows The Myth' About Property Rental Rules**

A recent decision siding with a property owner in a dispute over an alleged illegal Los Angeles hotel operation has brought front and center that the city's antiquated code actually says nothing about short-term rentals — despite the common view that apartments must be rented long-term — and comes as Los Angeles grapples with the question of regulation. [Read more »](#)

## EMPLOYMENT

#### **Senate OKs Trump Pick For Deputy Labor Secretary**

The U.S. Senate on Thursday confirmed Patrick Pizzella as deputy labor secretary, filling one of several top political positions at the U.S. Department of Labor that have remained unfilled more than a year into President Donald Trump's administration. [Read more »](#)

#### **Trump's Labor Dept. Issues First New Opinion Letters**

The U.S. Department of Labor's Wage and Hour Division issued its first set of new opinion letters in nearly a decade Thursday, laying out its stances on when workers should be paid for health-related rest breaks and time spent traveling for work, and what forms of lump-sum

Thomson Reuters Corporation  
Time Warner Inc.  
Toyota Motor Corporation  
Tribune Media Co.  
Turner Broadcasting System Inc.  
Twitter Inc.  
U.S. Chamber of Commerce  
U.S. Foods Inc.  
United Federation of Teachers  
Verizon Communications  
Viacom Inc.  
VirnetX Holding Corporation  
Wabtec Corporate  
Wolters Kluwer  
XTO Energy Inc.  
Xcel Energy Inc  
eBay Inc.

## GOVERNMENT AGENCIES

Bureau of Citizenship and  
Immigration Services  
Bureau of Indian Affairs  
Bureau of Labor Statistics  
Cherokee Nation  
Consumer Financial Protection  
Bureau  
Department of Commerce  
Eastern Band of Cherokee Indians  
Equal Employment Opportunity  
Commission  
European Union  
Executive Office of the President  
Federal Bureau of Investigation  
Federal Communications  
Commission  
Federal Energy Regulatory  
Commission  
Federal Labor Relations Authority  
Federal Reserve System  
Federal Trade Commission

payment should be garnished for child support.  
Read more »

### **Labor Chief Defends Spiking Tip Pool Data To Senators**

Labor Secretary Alex Acosta on Thursday defended his decision not to disclose the share of workers' tips that the U.S. Department of Labor estimated employers would have pocketed under its December proposal to undo Obama-era restrictions on tip pooling in a relatively cordial hearing before a U.S. Senate appropriations subcommittee. Read more »

### **Cuomo Signs Law Beefing Up Public Unions Ahead Of Janus**

New York Gov. Andrew Cuomo signed legislation Thursday bolstering the rights of public-sector unions in the state, a preemptive strike against an anticipated decision by the U.S. Supreme Court siding with worker Mark Janus in his challenge to the constitutionality of so-called agency fees, a ruling that could deal a major blow to organized labor. Read more »

### **NJ Senate Sends Sick Leave Bill To Gov. Murphy's Desk**

New Jersey legislation that would require employers to provide earned sick leave to their workers in the state is now bound for Gov. Phil Murphy, with the state Senate on Thursday passing the bill that supporters have said would protect employees and public health in general. Read more »

## **COMPETITION**

### **AT&T-Time Warner Expert Says DOJ Has 'No Statistical Basis'**

AT&T and Time Warner sought Thursday to eviscerate every part of the economics of the U.S. Department of Justice challenge against their merger in D.C. federal court, presenting their own expert witness to systemically criticize virtually every conclusion, and every

Food and Drug Administration  
Government Accountability Office  
Illinois Supreme Court  
Indian Health Service  
Internal Revenue Service  
International Trade Administration  
Iowa Legislature  
Jamestown S'Klallam Tribe  
La Jolla Band of Luiseno Mission Indians  
Morongo Band of Mission Indians  
NAFTA  
National Economic Council  
National Labor Relations Board  
Navajo Nation  
New Jersey Judiciary Court System  
New Jersey Legislature  
New York Attorney General's Office  
Occupational Safety and Health Administration  
Rincon Band of Luiseno Mission Indians  
Rural Utilities Service  
St. Croix Chippewa Indians of Wisconsin  
State Intellectual Property Office of the PRC  
Surface Transportation Board  
Texas Department of Public Safety  
U.S. Department of Agriculture  
U.S. Department of Defense  
U.S. Department of Energy  
U.S. Department of Health and Human Services  
U.S. Department of Homeland Security  
U.S. Department of Justice  
U.S. Department of Labor